



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD) Nos.25030, 25031, 25032, 25034, 25036, 25052, 25055 and 25059
of 2019

and

W.M.P. (MD) Nos.21618, 21620, 21619, 21621, 21624, 21648, 21651 and
21655 of 2019

B.Karnan	...	Petitioner in WP(MD)No. 25030 of 2019
J.Siyamala Davi	...	Petitioner in WP(MD)No . 25031 of 2019
R.Kanagaraj	...	Petitioner in WP(MD)No . 25032 of 2019
S.Pappammal	...	Petitioner in WP(MD)No . 25034 of 2019
M.Indira	...	Petitioner in WP(MD)No . 25036 of 2019
K.Kathirvel	...	Petitioner in WP(MD)No . 25052 of 2019
P.Sankaranarayanan	...	Petitioner in WP(MD)No . 25055 of 2019
V.Visweswaran	...	Petitioner in WP(MD)No . 25059 of 2019

vs.

- 1.The State of Tamilnadu,
Rep. by its Principal Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
- 2.The Director of School Education,
O/o. The Director of School Education,
DPI Campus,
College Road,
Chennai - 600 006.
- 3.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Illuppur,
Pudukkottai District - 622 102.



4.The Headmaster,
Government Higher Secondary School,
Illuppur, Pudukkottai District - 622 102.

... Respondents in WP(MD)No. 25030 of 2019

1. The State of Tamil Nadu
Rep.By its Principal Secretary,
Department of School Education,
Fort.St.George, Chennai-600 009

2. The Director of School Education,
Dpi Campus, College Road, Chennai-600 006

3. The Chief Educational Officer
Virudhunagar District

4. The Headmaster
Govt., Higher Secondary School,
M.Reddiapatty, Virudhunagar District

... Respondents in WP(MD)No. 25031 of 2019

1.The State of Tamil Nadu
Rep.By its Principal Secretary,
Department of School Education,
Fort.St.George, Chennai-600 009

2. The Director of School Education,
Dpi Campus, College Road, Chennai-600 006

3. The Chief Educational Officer
Virudhunagar Dist-

4. The Headmaster
Tunsv Higher Secondary School,
Tiruchuli, Virudhunagar Dist-626 129

... Respondents in WP(MD)No. 25032 of 2019

1. The State of Tamil Nadu
Rep.By its Principal Secretary,
Department of School Education,
Fort.St.George, Chennai-600 009

2. The Director of School Education,
Dpi Campus, College Road, Chennai-600 006

3. The Chief Educational Officer
Virudhunagar Dist-

4. The Headmaster
Government Higher Secondary School,
Kariyapatti, Virudhunagar Dist



1. The State of Tamil Nadu
Rep.By its Principal Secretary,
Department of School Education,
Fort.St.George, Chennai-600 009

2. The Director of School Education,
Dpi Campus, College Road, Chennai-600 006

3. The Chief Educational Officer, Virudhunagar District.

4. The Headmaster
Sri Veerappa Vidyalaya Hr.Sec.School,
Kullur Sandai, Virudhunagar District -626 001

... Respondents in WP(MD)No. 25036 of 2019

1. The State of Tamil Nadu
Rep.By its Principal Secretary,
Department of School Education,
Fort.St.George, Chennai-600 009

2. The Director of School Education,
Dpi Campus, College Road, Chennai-600 006

3. The Chief Educational Officer Virudhunagar Dist

4. The Headmaster
Govt Boys Higher Secondary School Kariyapatti,
Virudhunagar Dist

... Respondents in WP(MD)No. 25052 of 2019

1. The State of Tamil Nadu
Rep.By its Principal Secretary,
Department of School Education,
Fort.St.George, Chennai-600 009

2. The Director of School Education,
Dpi Campus, College Road, Chennai-600 006

3. The Chief Educational Officer, Virudhunagar Dist

4. The Headmaster
Govt Higher Secondary School Pandalkudi,
Aruppukottai, Virudhunagar Dist-626113

... Respondents in WP(MD)No. 25055 of 2019

1. The State of Tamil Nadu
Rep.By its Principal Secretary,
Department of School Education,
Fort.St.George, Chennai-600 009



2. The Director of School Education,
Dpi Campus, College Road, Chennai-600 006

3. The Chief Educational Officer, Virudhunagar Dist.

4. The Headmaster
Hajee P.Syed Higher Secondary School,
Virudhunagar and Dist

... Respondents in WP(MD)No. 25059 of 2019

Prayer in WP(MD). 25030 of 2019

Writ Petition is filed under Article 226 of the Constitution of India praying this Court, to call for the records pertaining to the impugned G.O.Ms.No.194, dated 12.09.2018, issued by the first respondent and quash the same to the extent of fixing the cut-off date of 06.04.2018 and consequently, to direct the respondents to count 50% of the part-time service rendered by the petitioner i.e. from 09.07.1987 to 16.10.1992 along with the regular service for the pension benefits.

Prayer in WP(MD)No. 25031 of 2019 :

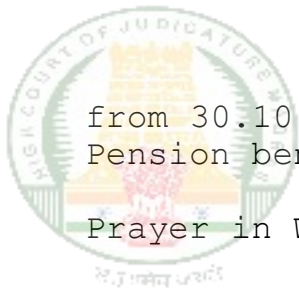
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to call for the records pertaining to the impugned G.O.Ms.No.194 dt.12/09/2018 issued by the Respondent No.1 and quash the same to the extent of fixing the cut of date of 06/04/2018 and consequently to direct the respondents to count 50 percent of the Part time service rendered by the petitioner from 09/07/1987 to 16/10/1992 along with the regular service for the Pension benefits

Prayer in WP(MD)No. 25032 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to call for the records pertaining to the impugned G.O.Ms.No.194 dt.12/09/2018 issued by the Respondent No.1 and quash the same to the extent of fixing the cut of date of 06/04/2018 and consequently to direct the respondents to count 50 percent of the Part time service rendered by the petitioner from 22.8.1987 to 16/10/1992 along with the regular service for the Pension benefits.

Prayer in WP(MD)No. 25034 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to call for the records pertaining to the impugned G.O.Ms.No.194 dt.12/09/2018 issued by the Respondent No.1 and quash the same to the extent of fixing the cut of date of 06/04/2018 and consequently to direct the respondents to count 50 percent of the Part time service rendered by the petitioner



from 30.10.1985 to 16.10.1992 along with the regular service for the Pension benefits

Prayer in WP(MD)No. 25036 Of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to call for the records pertaining to the impugned G.O.Ms.No.194 dt.12/09/2018 issued by the Respondent No.1 and quash the same to the extent of fixing the cut of date of 06/04/2018 and consequently to direct the respondents to count 50 percent of the Part time service rendered by the petitioner from 26/07/1988 to 16/10/1992 along with the regular service for the Pension benefits

Prayer in WP(MD)No. 25052 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to call for the records pertaining to the impugned G.O.Ms.No.194 dt.12/09/2018 issued by the Respondent No.1 and quash the same to the extent of fixing the cut of date of 06/04/2018 and consequently to direct the respondents to count 50 percent of the Part time service rendered by the petitioner from 3.7.1985 to 1.4.1990 along with the regular service for the Pension benefits

Prayer in WP(MD)No. 25055 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to call for the records pertaining to the impugned G.O.Ms.No.194 dt.12/09/2018 issued by the Respondent No.1 and quash the same to the extent of fixing the cut of date of 06/04/2018 and consequently to direct the respondents to count 50 percent of the Part time service rendered by the petitioner from 16.7.1984 TO 1.4.1990 along with the regular service for the Pension benefits

Prayer in WP(MD)No. 25059 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to call for the records pertaining to the impugned G.O.Ms.No.194 dt.12/09/2018 issued by the Respondent No.1 and quash the same to the extent of fixing the cut of date of 06/04/2018 and consequently to direct the respondents to count 50 percent of the Part time service rendered by the petitioner from 19.11.1989 TO 1.7.1997 along with the regular service for the Pension benefits

For Petitioner : Mr.S.Louis
in all WPs

For R1 to R4 : Mr.M.Karuppasamy,
Government Advocate



COMMON ORDER

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

2.All the petitioners are appointed as Vocational instructors on various dates. Subsequently, they were regularised on various dates. 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 were taken into account for calculating pension. While so, the Government passed the impugned G.O.Ms.No.194, School Education (SE7-1) Department, dated 12.09.2018, imposing a condition that the 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 the 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 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.(MD)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 Writ 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/her 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 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.

7. For the above reason, the condition imposed in the said Government Order, is quashed. The respondents are directed to consider the representation of the petitioners for counting 50% of the services 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.

8.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)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Principal Secretary to Government of Tamil Nadu,
Department of School Education,
Fort St. George,
Chennai - 600 009.

2.The Director of School Education,
O/o. The Director of School Education,
DPI Campus,
College Road,
Chennai - 600 006.

3.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Illuppur,
Pudukkottai District - 622 102.

4.The Headmaster,
Government Higher Secondary School,
Illuppur, Pudukkottai District - 622 102.

5. The Chief Educational Officer
Virudhunagar District.

6.The Headmaster Govt., Higher Secondary School,
M.Reddiapatty, Virudhunagar District

7.The Headmaster Tunsv Higher Secondary School,
Tiruchuli, Virudhunagar Dist-626 129

8.The Headmaster Government Higher Secondary School,
Kariyapatti, Virudhunagar Dist



9.The Headmaster
Sri Veerappa Vidyalaya Hr.Sec.School,
Kullur Sandai, Virudhunagar District -626 001

10 The Headmaster Govt Boys Higher Secondary School Kariyapatti,
Virudhunagar Dist

11 The Headmaster Govt Higher Secondary School Pandalkudi,
Aruppukottai, Virudhunagar Dist-626113

12 The Headmaster
Hajee P.Syed Higher Secondary School,
Virudhunagar and Dist

+1 CC to SPL GP (SR-101968[F] dated 27/11/2019)

+8 CC to Mr.S. LOUIS, Advocate (SR-102288[F] dated 28/11/2019)

**W. P (MD) Nos. 25030, 25031, 25032, 25034,
25036, 25052, 25055 and 25059 of 2019**
26.11.2019

VB(06.01.2020) 9P 22C