



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)Nos.25129, 25131, 25141, 25148, 25149, 25151, 25152, 25154, 25155, 25156, 25158, 25163, 25168, 25204, 25206 and 25207 of 2019

and

Connected miscellaneous petitions

W.P(MD)No.25129 of 2019

M.Vasantha Kumari

... Petitioner

vs.

- 1.The State of Tamilnadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai-09.
 - 2.The Director of School Education,
College Road, Chennai-06.
 - 3.The Joint Director of School Education (Vocational)
College Road, Chennai 600 006
 - 4.The Chief Educational Officer
Kanyakumari District, Nagercoil
 - 5.The Headmaster
Government Tribal Residential Higher Secondary School
Pechipparai 629 161
Kanyakumari District
- ... 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 relating to the impugned proceedings issued by the 4th respondent herein in Na.Ka.No.12888/A2/2018 dated 24.07.2019, quash the same, and further direct the respondents herein to re-fix petitioner's pension by counting 50% of the petitioner's part-time Vocational Instructor service between 20.08.1982 to 04.10.1996 and also disburse arrears of pension from the date of retirement.

WP(MD)NO. 25131/ 2019

S.Sugantham

... Petitioner

- Vs. -

1. The State of Tamilnadu
Rep by its Secretary, Dept of School Education,
Fort St.George, Chennai-600 009
- 2.The Director of School Education,
College Road, Chennai600 006



3.The Joint Director of School Education(Vocational),
College Road,Chennai-600 006

4.The Chief Educational Officer
Kanyakumari District Nagercoil

... Respondents

Prayer in WP(MD)NO.25131/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, praying to call for the records herein in Na.Ka.no.12888/A2/2018 dt 24.7.2019 Quash the Same and further Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational insturctor service between 7.7.1980 TO 4.10.1996 and also disburse arrears of pension from the date of retirement.

WP(MD)NO. 25141/ 2019

J.Justin Raj

... Petitioner

- Vs. -

1. The State of Tamilnadu
Rep by its Secretary,
Department of School Education,
Fort St.George, Chennai-600 009

2. The Director of School Education,
College Road, Chennai600 006

3. The Joint Director of School Education(Vocational),
College Road,Chennai-600 006

4. The Chief Educational Officer
Kanyakumari District,Nagercoil

... Respondents

Prayer in WP(MD)NO.25141/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, praying Court to call for the records relating to the impugned proceedings issued by the 4th respondent herein in Na.Ka.no.12888/A2/2018 dt 24.7.2019 Quash the Same and further Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational insturctor service between 03.7.1978 to 27.11.1986 and also disburse arrears of pension from the date of retirement.

WP(MD)NO.25148/ 2019

H.Jeyaranjini

... Petitioner

- Vs. -



- 1.The State of Tamilnadu
Rep by its Secretary, Dept of School Education,
Fort St.George, Chennai-600 009
 - 2.The Director of School Education,
College Road, Chennai600 006
 - 3.The Joint Director of School Education(Vocational),
College Road, Chennai600 006
 - 4.The Chief Educational Officer
Tirunelveli Dist
 - 5.The Headmaster
AVJ Govt Higher Secondary School,
Ittamozhi, Tirunelveli District
-Respondents

Prayer in WP(MD)NO. 25148/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus praying to call for the records relating to the impugned proceedings issued by the 4th respondent herein in Na.Ka.no.4248/A2/2019 dt Nil.7.2019 Quash the Same and further Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational instructor service between 28.8.1981 to 31.3.1990 and also disburse arrears of pension from the date of retirement

WP(MD)NO. 25149/ 2019

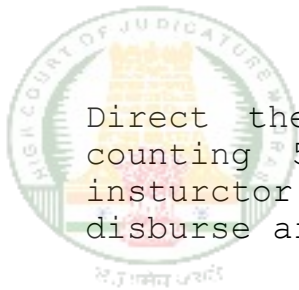
T.Thankam ... Petitioner

Vs

- 1.The State of Tamil Nadu
Rep by its Secretary, Dept of School Education,
Fort St.George, Chennai-600 009
 - 2.The Director of School Education,
College Road, Chennai600 006
 - 3.The Joint Director of School Education, (Vocational),
College Road, Chennai-6
 4. The Cheif Educational Officer,
Kanyakumari District, Nagercoil
- ... Respondents

Prayer in WP(MD)No. 25149/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus praying to call for the records relating to the impugned proceedings issued by the 2nd respondent herein in Na.Ka.no.00010/V1/E3/2018 dt 13/12/2018 Quash the Same and further



Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational insturctor service between 01/06/1987 to 04/10/1996 and also disburse arrears of pension from the date of retirement.

WP (MD) No. 25151/ 2019

C.Saroja

... Petitioner

- Vs. -

1.The State of Tamilnadu

Rep by its Secretary, Department of School Education,
Fort St.George, Chennai-600 009

2.The Director of School Education,
College Road, Chennai600 006

3.The Joint Director of School Education(Vocational),
College Road,Chennai600 006

4.The Chief Educational Officer
Kanyakumari District Nagercoil

... Respondents

Prayer in WP(MD)No. 25151/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus praying to call for the records relating to the impugned proceedings issued by the 4th respondent herein in Na.Ka.no.4681/A2/2019 dt 26/08/2019 Quash the Same and further Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational insturctor service between 12/09/1988 to 11/11/1997 and also disburse arrears of pension from the date of retirement.

WP (MD) No. 25152/ 2019

T.Susi

..Petitioner

- Vs. -

1.The State of Tamilnadu

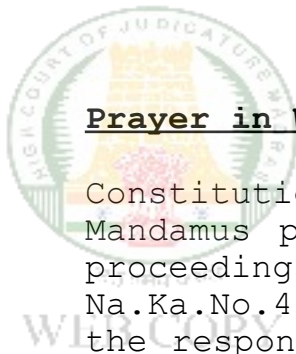
Rep by its Secretary, Dept of School Education,
Fort St.George, Chennai-600 009

2.The Director of School Education,
College Road, Chennai600 006

3.The Joint Director of School Education(Vocational),
College Road, Chennai600 006

4.The Chief Educational Officer
Kanyakumari District, Nagercoil

... Respondents



Prayer in WP(MD)No. 25152/ 2019:

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus praying to call for the records relating to the impugned proceedings issued by the 4th respondent herein in Na.Ka.No.4681/A2/2019 dt 26.8.2019 Quash the Same and further Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational insturctor service between 25.8.1983 to 11.11.1997 and also disburse arrears of pension from the date of retirement.

WP(MD)NO. 25154/ 2019

C.Stella Mabel

.. Petitioner

- Vs. -

1.The State of Tamilnadu
Rep by its Secretary,
Department of School Education,
Fort St.George, Chennai-600 009

2.The Director of School Education,
College Road, Chennai600 006

3.The Joint Director of School Education(Vocational),
College Road, Chennai600 006

4.The Chief Educational Officer,
Kanyakumari District, Nagercoil

... Respondents

Prayer in WP(MD)NO. 25154/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus praying to call for the records relating to the impugned proceedings issued by the 2nd respondent herein in Na.Ka.no.060104/V1/E3/2018 dt 13/12/2018 Quash the Same and further Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational insturctor service between 01/07/1981 to 04/10/1996 and also disburse arrears of pension from the date of retirement.

WP(MD)No. 25155/ 2019

T.Gracelin Prabha Rani

...Petitioner

Vs

1.The State of Tamilnadu
Rep by its Secretary, Department of School Education,
Fort St.George, Chennai-600 009

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



3.The Joint Director of School Education(Vocational),
College Road, Chennai 600 006

4.The Chief Educational Officer
Kanyakumari District Nagercoil

... Respondents

Prayer in WP(MD)No. 25155/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India,for issuance of a Writ of Certiorarified Mandamus praying to call for the records relating to the impugned proceedings issued by the 4th respondent herein in Na.Ka.no.4681/A2/2019 dt 26.8.2019 Quash the Same and further Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational insturctor service between 01.12.1978 to 31.5.1984 and also disburse arrears of pension from the date of retirement.

WP(MD)No. 25156/ 2019

P.Philominal

...Petitioner

- Vs. -

1.The State of Tamilnadu

Rep by its Secretary, Department of School Education,
Fort St.George, Chennai-600 009

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

3.The Joint Director of School Education(Vocational),
College Road, Chennai 600 006

4.The Chief Educational Officer
Kanyakumari District, Nagercoil

... Respondents

Prayer in WP(MD)No. 25156/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India,for issuance of a Writ of Certiorarified Mandamus praying to call for the records relating to the impugned proceedings issued by the 4th respondent herein in Na.Ka.no.4681./A2/2019 dt 26/08/2019 Quash the Same and further Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational insturctor service between 02/07/1980 to 11/11/1997 and also disburse arrears of pension from the date of retirement.

WP(MD)No. 25158/ 2019

C.Glory Raja Bai

...

Petitioner

- Vs. -

1.The State of Tamilnadu

Rep by its Secretary, Department of School Education,
Fort St.George, Chennai-600 009



2.The Director of School Education,
College Road, Chennai600 006

3.The Joint Director of School Education(Vocational),
College Road, Chennai600 006

4.The Chief Educational Officer
Kanyakumari District, Nagercoil

5.The Headmaster Government Tribal Residential
Higher Secondary School,Pechipparai-629 161,
Kanyakumari District ... Respondents

Prayer in WP(MD)No. 25158/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus praying to call for the records relating to the impugned proceedings issued by the 4th respondent herein in Na.Ka.no.12888/A2/2018 dt 24.7.2019 Quash the Same and further Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational instrurctor service between 03.6.1981 to 4.10.1996 and also disburse arrears of pension from the date of retirement.

WP(MD)No. 25163/ 2019

G.Kumar ... Petitioner

- Vs. -

1.The State of Tamilnadu
Rep by its Secretary, Department of School Education,
Fort St.George, Chennai-600 009

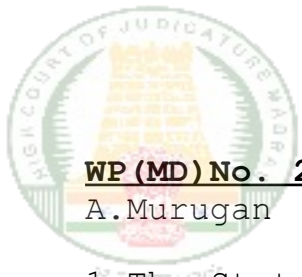
2.The Director of School Education,
College Road, Chennai600 006

3.The Joint Director of School Education(Vocational),
College Road, Chennai600 006

4.The Chief Educational Officer
Kanyakumari District,
Nagercoil. ... Respondents

Prayer in WP(MD)No. 25163/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus praying to call for the records relating to the impugned proceedings issued by the 4th respondent herein in Na.Ka.no.12888/A2/2018 dt 24.7.2019 Quash the Same and further Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational instrurctor service between 01.08.1984 to 31.03.1990 and also disburse arrears of pension from the date of retirement.



WP (MD) No. 25168/ 2019

A.Murugan

... Petitioner

- Vs. -

- 1.The State of Tamil Nadu
Rep. by its Secretary, Department of School Education,
Fort. St.George, Chennai-09
- 2.The Director of School Education,,
College Road, Chennai-6
- 3.The Joint Director of School Education(Vocational),
College Road, Chennai-6
- 4.The Chief Educational Officer,
Tirunelveli District
- 5.The Headmaster
A.V.J.Govt.Hr.Sec. School, Ittamozhi,
Tirunelveli District

... Respondents

Prayer in WP(MD)No. 25168/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus praying to call for the records relating to the impugned proceedings issued by the 4th respondent herein in Na.Ka.no4224/A2/2019 dt Nil .07.2019 Quash the Same and further Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational instructor service between 27.08.1981 to 31.03.1990 and also disburse arrears of pension from the date of retirement.

WP (MD) No. 25204/ 2019

N.Stephen

... Petitioner

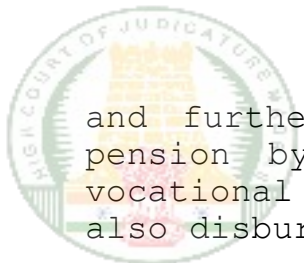
- Vs. -

- 1.The State of Tamilnadu
Rep by its Secretary,
Department of School Education,
Fort St.George, Chennai-600 009.
- 2.The Director of School Education,
College Road, Chennai600 006.
- 3.The Joint Director of School Education(Vocational),
College Road, Chennai 600 006.
- 4.The Chief Educational Officer
Kanyakumari District, Nagercoil

... Respondents

Prayer in WP(MD)No. 25204/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to calling for the records relating to the impugned proceedings issued by the 2nd respondent herein in Na.Ka.no.069695/V1/E3/2018 dt Nil /11/2018 Quash the Same



and further Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational instructor service between 08/01/1985 to 11/11/1997 and also disburse arrears of pension from the date of retirement.

WP(MD). 25206/ 2019

Y.Padma

... Petitioner

- Vs. -

- 1.The State of Tamilnadu
Rep by its Secretary, Department of School Education,
Fort St.George, Chennai-600 009
- 2.The Director of School Education,
College Road, Chennai600 006.
- 3.The Joint Director of School Education(Vocational),
College Road, Chennai600 006
- 4.The Chief Educational Officer
Kanyakumari District, Nagercoil

... Respondents

Prayer in WP(MD)No. 25206/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus praying to call for the records relating to the impugned proceedings issued by the 2nd respondent herein N in Na.Ka.No.060104/VI/E3/2018 dt 13.12.2018 Quash the Same and further Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational instructor service between 04.6.1980 to 11.11.1997 and also disburse arrears of pension from the date of retirement._

WP(MD)No. 25207/ 2019

G.Rathinamony

...

Petitioner

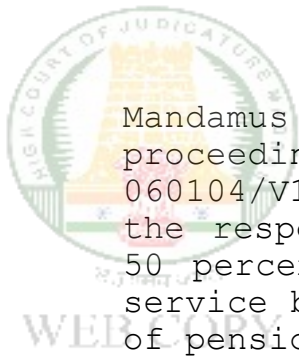
- Vs. -

- 1.The State of Tamil Nadu
Rep. by its Secretary,
Department of School Education,
Fort. St.George, Chennai-09
- 2.The Director of School Education,,
College Road, Chennai-6
- 3.The Joint Director of School Education(Vocational),
College Road, Chennai-6
- 4.The Chief Educational Officer,
Kanyakumari District ,Nagercoil

... Respondents

Prayer in WP(MD). 25207/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified



Mandamus praying to call for the records relating to the impugned proceedings issued by the 2nd respondent herein in Na.Ka.no. 060104/V1/E3/2018 dt 13.12.2018, Quash the Same and further Direct the respondents herein to re-fix petitioners pension by counting 50 percentage of the petitioners part-time vocational instructor service between 29.08.1979 to 04.10.1996 and also disburse arrears of pension from the date of retirement.

For Petitioner in all WP's : Mr.E.V.N.Siva
For R1 to R4 in all WP's : Mr.M.Karuppasamy,
Government Advocate

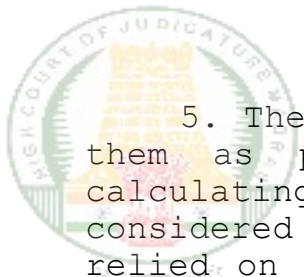
COMMON ORDER

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 imposed 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 petitioner and the learned Government Advocate appearing for the respondents 1 to 4 and perused the materials available on record.

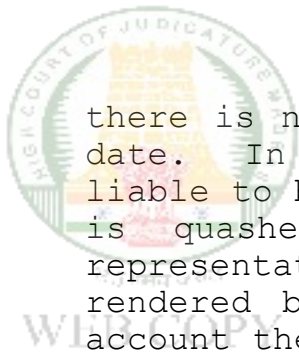


5. The petitioners are seeking 50% of their service rendered by them as part time vocational instructors to be counted for calculating pension payable to them. This issue was already considered by this Court in W.P.No.14365 of 2014 etc., batch, relied on by the learned counsel for the petitioners. This 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



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 (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

msa

To

- 1.The Secretary,
The State of Tamilnadu,
Department of School Education,
Fort St. George, Chennai-09.
- 2.The Director of School Education,
College Road,Chennai-06.
- 3.The Joint Director of School Education (Vocational)
College Road, Chennai 600 006
- 4.The Chief Educational Officer
Kanyakumari District, Nagercoil
- 5.The Chief Educational Officer, Tirunelveli Dt

+1 CC to M/s.SPL GP (SR-102412[F] dated 28/11/2019)

+16 CC to M/s.E.V.N.SIVA, Advocate (SR-102748[F] dated 29/11/2019)

W.P(MD)Nos.25129, 25131, 25141, 25148, 25149, 25151, 25152, 25154, 25155, 25156, 25158, 25163, 25168, 25204, 25206 and 25207 of 2019 and Connected miscellaneous petitions
27.11.2019

SMA/10/01/2020/12P/23C