

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.NO.2052of 2020

S.H. Vasanthakumari

... Petitioner

-Vs-

1. The Secretary to the Government
School Education Department
Fort. St. George, Chennai 600 009
2. The Accountant General (Pension)
No.361, Anna Salai, Teynampet
Chennai 600 018.
3. The Director of School Education
DPI Complex, College Road,
Chennai 600 006.
4. The Chief Educational Officer,
Kancheepuram
5. The District Educational Officer,
St. Thomas Mount, Chennai 600 044.
6. The C.S.I. St. Thomas Higher Secondary School
Rep. by its Secretary R. Gladwin Gabriel,
No. 47, Butt Road, St. Thomas Mount,
Chennai 600 016.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ or order or Direction more fully in the nature of Writ of Mandamus directing the second respondent to count the 50% of service rendered by the petitioner from 15.10.1985 to 04.10.1996 (10 years 11 months and 19 days) for the purpose of commutation of pension and other benefits based on the proposal submitted by the school management to the fifth respondent.

For Petitioner : Mr. K.H. Ravikumar

For Respondents

For R1, R3, R4 & R5 : Mr. A. Rajaperumal
Additional Government Pleader

For R2 : Mr. Vijayashankar

ORDER

Mr. A. Rajaperumal takes notice for R1, R3,R4,R5 and Mr.Vijayashankar takes notice for R2.

2. By consent of both the parties, the main Writ Petition itself has been taken up for final hearing, since the issue involved in this Writ Petition is covered by the earlier orders passed by this Court.

3. The case of the petitioner is that he was initially appointed on 15.10.1985 as a vocational Instructor on a part time basis and his appointment was approved by the competent authority by his proceeding dated 20.01.1986. In the year 1996, the petitioner was brought in as a full time vocational Instructor and his scale of pay was also fixed with effect from 05.10.1996. The petitioner gave his voluntary retirement and the same was accepted by the management and the petitioner was relieved from service on 31.05.2018. This was also approved by the District Educational Officer by his proceedings dated 31.07.2018.

4. While calculating the pension of the petitioner, his service from 1985 to 1996 was not taken into consideration. According to the petitioner, as per G.O. Ms. No. 194 dated 12.09.2018, the respondent has to count 50% of the service from 1985 to 1996 for the purpose of pension. The petitioner has made representations in this regard and the sixth respondent school has already forwarded necessary papers to the fifth respondent, namely, the District Education Officer. The fifth respondent has to forward the papers to the second respondent and the Accountant General (pension) will have to ultimately rework the pension by counting 50% of the service rendered by the petitioner from 1985 to 1996. Since no steps were taken for passing necessary orders, the present Writ Petition has been filed before this Court.

5. Heard Mr. K.H. Ravikumar, the learned counsel for the petitioner and Mr. A. Rajaperumal and Mr.Vijayashankar, the learned counsel for the respondents.

6. It will be relevant to take note of the earlier orders passed by this Court, wherein this Court had considered similar issue and directed the respondents to take into account 50% of the service rendered by an employee before he was regularized in service.

7. This Court in the case of S. Venkatachalam vs. Principal Secretary to Government and others in W.P.(MD)Nos.16864 and 16926 of 2018 dated 31.07.2018 dealt with the same issue, wherein, this Court held that the period during which the employee was engaged as a part time vocational Instructor must be taken into consideration by taking 50% of the service for the purpose of calculating the pension. In order to arrive at such a conclusion, this Court had taken into consideration the earlier orders passed by considering Rule 11(4) of the Tamil Nadu Pension Rules.

8. The Division Bench of this Court also had an occasion to consider similar issue in the case of Government of Tamil Nadu vs. M.Muthuramalingam in W.A. No.3077 of 2019 dated 13.09.2019. The Division Bench confirmed the order passed by the learned Single Judge and held that 50% of the service rendered as part time vocational instructor must be taken into consideration for the purpose of calculating the pension. The Division Bench also took note of the subsequent G.O. that was passed by the Government in G.O. Ms.No.194 dated 12.09.2018 wherein this benefit was extended to all similarly placed persons who were working as part time vocational instructors. This Government Order restricted the relief only for those persons who filed Writ Petitions on or before 06.04.2018. This restriction was held to be bad by this Court in the order passed in W.P.(MD) Nos.24702, 24707, 24717, 24721 of 2019 dated 22.11.2019 and this Court has held that the relief will be extended to all those persons who are similarly placed.

9. In view of the above discussions, the petitioner will be entitled for the relief sought for by him in this Writ Petition.

10. In the result, this Writ Petition is disposed of with a direction to the fifth respondent to immediately forward the entire papers to the second respondent and the second respondent, on receipt of the records, shall count 50% of the service rendered by the petitioner from 15.10.1985 to 04.10.1996 for the purpose of commutation of pension and other benefits and shall pass suitable orders within a period of six weeks from the date of receiving the records from the fifth respondent. The fifth respondent shall forward the entire records to the second respondent within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to the Government
School Education Department
Fort. St. George, Chennai 600 009
2. The Accountant General (Pension)
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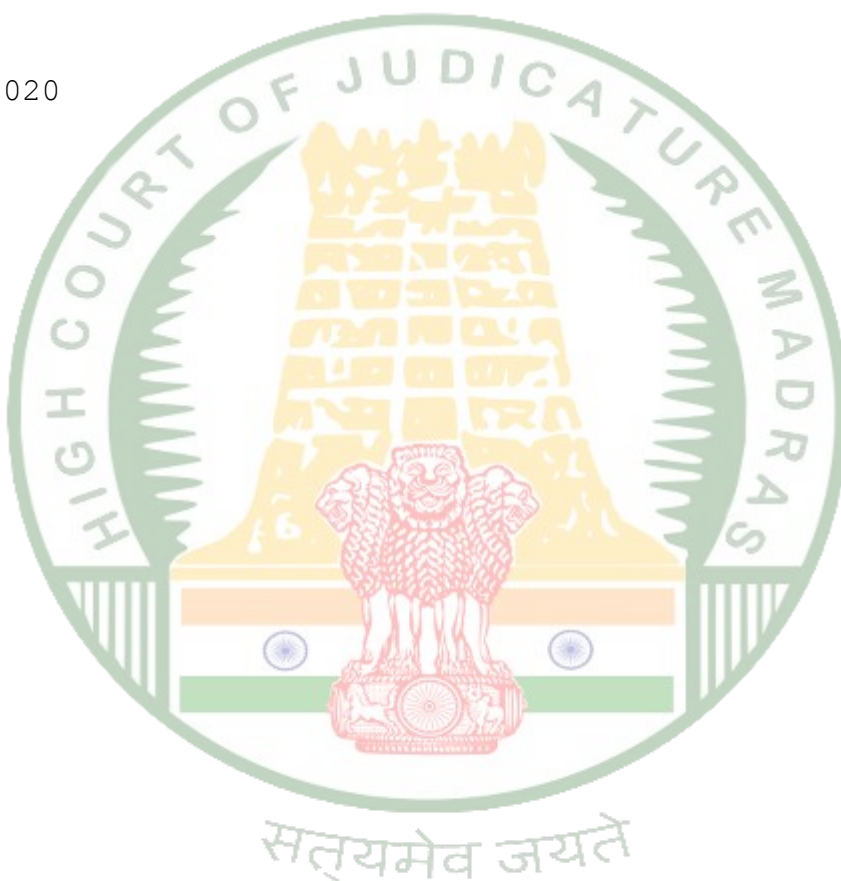
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6. The Secretary R. Gladwin Gabriel,
C.S.I. St. Thomas Higher Secondary School
No. 47, Butt Road, St. Thomas Mount,
Chennai 600 016.

+1cc to Mr. K.H. Ravikumar, Advocate sr.6620
+1cc to Government Pleader SR.NO. 7176

W.P.NO.2052 of 2020

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