



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 25.08.2020

CORAM

**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN**

**AND**

**THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM**

WEB COPY

W.A(MD)No.353 of 2020

and

C.M.P(MD)No.2395 of 2020

- 1.The State of Tamil Nadu,  
represented by its  
Principal Secretary,  
School Education Department (Pa.Ka.7-1),  
Fort St. George,  
Chennai - 9.
  - 2.The Director of School Education,  
College Road,  
Chennai - 6.
  - 3.The District Educational Officer,  
Uthamapalayam Educational District,  
Uthamapalayam,  
Theni District - 625 533. ... Appellants/Respondents  
Vs.
- M.Murugamani ... Respondent/Writ Petitioner

Prayer : Appeal filed under Clause 15 of the Letters Patent Appeal against the order passed by this Court in W.P(MD)No.16252 of 2019, dated 28.11.2019.

Prayer in WP(MD). 16252 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for records of the impugned G.O.Ms.No.194 dated 12-09-2018 issued by the 1st Respondent and consequential impugned order passed by the 2nd Respondent dated -2-2019 bearing Na.Ka.No.001668/V1/E3/2019 and quash the same with regard to the cut of date i.e 06-04-2018 and directing the respondents to take the 50 percent of the part time service rendered by the petitioners Husband G,Muneeswaran ie from 03-10-1979 to 01-04-1990 along with the regulars service for the pesion benefits i.e., for the period of 27 years 10 months 03 days.



For Appellants : Mrs.S.Srimathy  
Special Government Pleader

For Respondent : Mr.R.Saravanan

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**JUDGMENT**

(Judgment of the Court was delivered by **M. SATHYANARAYANAN, J.**)

The official respondents in W.P(MD)No.16252 of 2019 are the appellants.

2. The respondent/writ petitioner made a challenge to the impugned Government Order passed by the first appellant in G.O.Ms.No.194, School Education (SE7-1) Department, dated 12.09.2018 and the consequential impugned order of the second appellant dated --.02.2019, with regard to the prescription of the cut-off date, i.e., 06.04.2018 and sought for a further direction, directing the appellants/official respondents to take into consideration 50% of the Part Time service rendered by the respondent/writ petitioner between 03.10.1979 to 01.04.1990 along with the regular service for the pension benefits, i.e., for the period of 27 years 10 months and 3 days.

3. The said writ petition, after contest, came to be allowed and challenging the legality of the same, the present writ appeal is filed.

4. Learned Special Government Pleader appearing for the appellants/official respondents would submit that in terms of Rules 2 and 11 of the Tamil Nadu Pension Rules, 1978, the period of service rendered by the respondent/writ petitioner as Part Time Vocational Instructor cannot be taken for the purpose of calculating the pension and in the light of the legal position coupled with the fact that the respondent/writ petitioner had also belatedly approached this Court, the respondent/writ petitioner is guilty of delay and laches and hence, the impugned order in allowing the writ petition and thereby, mulcting upon the appellants/official respondents is, per se, unsustainable and prays for interference.

5. Mr.R.Saravanan, learned Counsel accepts notice on behalf of the respondent/writ petitioner and would submit that the matter in issue is no longer *res integra*, in the light of the common judgment of the Division Bench of this Court in W.A.Nos.882 of 2017, etc., batch, dated 06.04.2018 [**The Government of Tamil Nadu, rep. by its Secretary to Government, School Education Department,**



**Fort St. George, Chennai - 600 009 and others v. K.Pachaiyappan]** and the judgment of this Court in W.A(MD)No.517 of 2020, dated 13.08.2020 [**The State of Tamil Nadu, represented by its Secretary, School Education Department, Fort St. George, Chennai and others v. S.Durairaj and another**] and hence, prays for dismissal of this writ appeal.

6. This Court has carefully considered the rival submissions and perused the materials placed on record.

7. It is relevant to extract hereunder the operative portion of the common judgment of the Division Bench of this Court in W.A.Nos.882 of 2017, etc., batch, dated 06.04.2018 (cited supra):

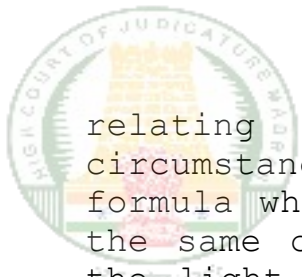
"15. In terms of the above discussions, we dispose of the writ appeals as under:

(i) 50% of the services rendered by the respondents herein, as Part Time Vocational Instructor (either as Single Part Time or Double Part Time Vocational Instructor), shall be counted for the purpose of computing pension and other retiral benefits.

(ii) The above said benefit shall be extended only to the respondents in these writ appeals and for the persons similarly situated like that of the respondents herein, whose cases are pending before this Court. Thus it is made clear that the above said benefit shall not be extended to any other future cases that may be filed on this account, on the ground of delay and laches, since all along they have not come up before this Court and remained as fence-sitters. It is also needless to point out that allowing such cases would amount to opening the pandora's box, touching upon the financial implications of the State.

16. The writ appeals are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed."

8. In the considered opinion of this Court, the case of the respondent herein/writ petitioner is similar to that of the respondents in the above writ appeals and though it was open to the appellants/official respondents to confer the similar benefit without asking them to approach the Court, they were asked to get individual orders, may be on account of financial liability. The factual aspects pertaining to service condition of the respondent/writ petitioner are not under dispute. The issue



relating to delay and laches depends upon the facts and circumstances of the case and there cannot be any straight jacket formula while considering the said issue and in the case on hand, the same cannot be put against the respondent/writ petitioner in the light of the settled position of law that persons similarly placed have to be conferred with the same benefits without driving them to the Court.

9. As rightly pointed out by the learned Counsel for the respondent/writ petitioner, in the light of the legal position being settled as to the entitlement of the respondent/writ petitioner, this Court is of the considered view that in terms of the above cited two judgments of the Division Bench of this Court, this writ appeal deserves dismissal.

10. In the result, this **writ appeal is dismissed**, confirming the order, dated 28.11.2019, passed in W.P(MD)No.16252 of 2019 and the appellants/official respondents are directed to settle the retiral/terminal/consequential benefits to the respondent/writ petitioner within a period of **ten weeks** from the date of receipt of a copy of this order. However, it is made clear that the respondent/writ petitioner is not entitled to any interest as to the settlement/belated settlement of the retiral/terminal/consequential benefits. No costs. Consequently, the connected civil miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(Records)

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Sub Assistant Registrar(CS)

RSB

**Note:** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1.The Principal Secretary, State of Tamil Nadu,  
School Education Department (Pa.Ka.7-1),  
Fort St. George, Chennai - 9.



2.The Director of School Education,  
College Road,  
Chennai - 6.

3.The District Educational Officer,  
Uthamapalayam Educational District,  
Uthamapalayam,  
Theni District - 625 533.

+1 CC to M/s.GP ( SR-15013[F] dated 26/08/2020 )

**W.A (MD) No.353 of 2020**  
**and**  
**C.M.P (MD) No.2395 of 2020**  
**25.08.2020**

AVS (CO)  
TR(07.09.2020) 5P 5C