



WEB COPY

W.A.(MD)No.656 of 2020

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

W.A(MD)No.656 of 2020

and

C.M.P(MD)No.4093 of 2020

against

WP(MD)No.17306 of 2018

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.
- 2.The Director of School Education,
D.P.I. Campus,
College Road,
Chennai - 600 006.
- 3.The Joint Director of School Education (Vocational),
O/o. The Director of School Education,
DPI Complex, College Road,
Chennai - 600 006.
- 4.The Chief Educational Officer,
O/o. the Chief Educational Officer,
Tirunelveli Distict,
Tirunelveli.
... Appellants/ Respondents
Vs.
- 1.K.Ramalakshmi
... 1st Respondent/ Writ Petitioner
- 2.The Accountant General,
O/o. The Accountant General (A&E),
Teynampet,
Chennai - 600 018.
... 2nd Respondent/ 5th Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent Appeal against the order passed by this Court in W.P(MD)No.17306 of 2018, dated 02.08.2018.

Prayer in WP(MD). 17306 Of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to calculate the 50% of service

<https://hcservices.ecourts.gov.in/hcservices/>



rendered by the petitioner as part-time Vocational Instructor drawing consolidated pay along with regular service for arriving net qualifying service for calculation pension and to grant all monetary and other attendant benefits and arrears with in Stipulated time may be fixed by this Court.

WEB COPY

For Appellants : Mrs.S.Srimathy
Special Government Pleader
For 1st Respondent : Mr.M.Saravana Kumar
For 2nd Respondent : Mr.P.Gunasekaran
Standing Counsel

JUDGMENT

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

The official respondents in W.P(MD)No.17306 of 2018 are the appellants.

2.The first respondent/writ petitioner sought for a Writ of Mandamus, directing the appellants/official respondents 1 to 4 to calculate the 50% of service rendered by the first respondent/writ petitioner as Part Time Vocational Instructor drawing consolidated pay along with regular service for arriving net qualifying service for calculation of pension and to grant all monetary and other attendant benefits and arrears within a stipulated time frame that may be fixed by this Court.

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 first respondent/writ petitioner had also belatedly approached this Court, the first 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 1 to 4 is, per se, unsustainable and prays for interference.

5. Mr.R.Ragavendran, learned Counsel accepts notice on behalf of the first 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 first 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 1 to 4 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 first 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 first 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. In the light of the legal position being settled as to the entitlement of the first 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 02.08.2018, passed in W.P(MD)No.17306 of 2018 and the appellants/official respondents are directed to settle the retiral/terminal/consequential benefits to the first 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 first 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 (CS-II)

// True Copy //

/ /2020

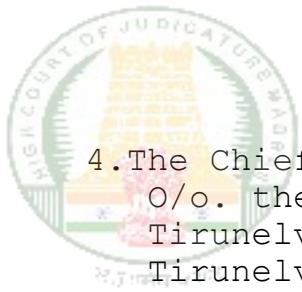
Sub Assistant Registrar(CS)

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 to Government,
State of Tamil Nadu,
School Education Department,
Fort St. George,
Chennai - 600 009.
- 2.The Director of School Education,
D.P.I. Campus,
College Road,
Chennai - 600 006.
- 3.The Joint Director of School Education (Vocational),
O/o. The Director of School Education,
DPI Complex, College Road,
Chennai - 600 006.



4.The Chief Educational Officer,
O/o. the Chief Educational Officer,
Tirunelveli Distict,
Tirunelveli.

5.The Accountant General,
O/o. The Accountant General (A&E),
Teynampet,
Chennai - 600 018.

W.A(MD)No.656 of 2020
and
C.M.P (MD)No.4093 of 2020
25.08.2020

VB (08.09.2020) 5P 6C