



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2020

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THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P (MD) No.4607 of 2020

K.Ravindran

.. Petitioner

Vs.

1.The State of Tamilnadu
rep. by its Secretary,
School Education Department,
Fort St. George, Chennai.

2.The Accountant General of Tamilnadu,
(Accounts and Entitlements),
Chennai.

3.The Director of School Education,
College Road, Chennai.

4.The Chief Educational Officer,
Virudhunagar District,
Virudhunagar.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for records relating to the impugned order passed by the 4th respondent in his proceedings in Na.Ka.No.569/E1/2020, dated 17.02.2020 and quash the same and consequently direct the respondents to re-fix the petitioner's pension by taking into account of 50% of the petitioner's part time service rendered by the petitioner from 01.09.1981 to 31.03.1990 along with his regular service and pass such further or other orders.

For Petitioner : Mr.B.Prahalad Ravi

For Respondents 1,3&4 : Mr.N.Shanmugaselvam,
Additional Government Pleader.

For Respondent No.2 : Mr.P.Gunasekaran



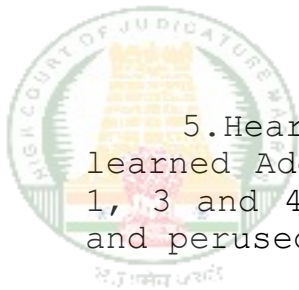
ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for records relating to the impugned order passed by the 4th respondent in his proceedings in Na.Ka.No.569/E1/2020, dated 17.02.2020 and quash the same and consequently direct the respondents to re-fix the petitioner's pension by taking into account 50% of his part time service rendered from 01.09.1981 to 31.03.1990 along with his regular service.

2.Mr.N.Shanmugaselvan, learned Additional Government Pleader, takes notice for the respondents 1,3 and 4. Mr.P.Gunasekaran, learned counsel takes notice for the 2nd respondent. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.The case of the petitioner is that he was appointed as Single Part Time Vocational Instructor on 01.09.1981. Subsequently, his services were regularized with effect from 01.04.1990. The grievance of the petitioner is that though he has attained the age of superannuation on 30.04.2014, 50% of the part time service rendered by him from 01.09.1981 to 31.03.1990 has not been taken into consideration for calculating his pension and therefore, he made a representation dated 23.06.2017 to the respondents. Since the respondents had not passed any orders on his representation, he filed W.P(MD)No.27107 of 2019 and this Court, vide order, dated 20.12.2019, directed the respondents to consider the representation of the petitioner, in the light of the order dated 05.11.2019 passed in W.P(MD)No.22785 of 2019. But, the 4th respondent, vide impugned order, dated 17.02.2020, has rejected the claim of the petitioner stating that they have been advised to consider the case of the persons, who have filed cases before 06.04.2018 and to initiate action for filing appeal as against the cases filed after 06.04.2018 in the light of the proceedings of the 1st respondent dated 12.09.2018 and 02.11.2018. Against which, the present writ petition has been filed.

4.The learned counsel for the petitioner drawing the attention of this Court to the decision of the Full Bench of this Court in W.A.Nos.158 of 2016, etc. batch, dated 25.07.2019, submitted that the petitioner was appointed on 01.09.1981 as Singe Part Time Vocational Instructor and his services were regularized with effect from 01.04.1990 and therefore, 50% of his part time service shall be taken into consideration for calculating his pension, but the 4th respondent without following the said decision of the Full Bench of this Court, has passed the impugned order.



5. Heard the learned counsel appearing for the petitioner, learned Additional Government Pleader appearing for the respondents 1, 3 and 4 and the learned counsel appearing for the 2nd respondent and perused the materials available on record.

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6. It is seen that the petitioner was initially appointed as Single Part Time Vocational Instructor on 01.09.1981 and his services were regularized with effect from 01.04.1990. The 4th respondent, relying upon the proceedings of the 1st respondent dated 02.11.2018 and G.O.Ms.No.194, School Education Department, dated 12.09.2018, has rejected his claim. It is seen that the proceedings and the Government Order relied on by the 4th respondent had already been quashed by this Court and therefore, the said proceeding and Government Order have become irrelevant to the case of the petitioner. In W.A.Nos.158 of 2016, etc, batch, [The Government of Tamil Nadu rep. by Secretary to Government, Public Works Department, Chennai - 600 009 and Others v. R.Kaliyamoorthy], a Full Bench this Court has held as follows:

"... 46. In the light of the above, we answer the reference as follows:-

i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003

(ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.

(iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.

(iv) Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.

(v) Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."



In view of the above reasons and also following the above decision of the Full Bench of this court, this Court is inclined to interfere with the impugned order. Accordingly, the impugned order, dated 17.02.2020 passed by the 4th respondent is quashed and the matter is remanded back to the 4th respondent and the 4th respondent is directed to consider the request of the petitioner and pass fresh orders, in the light of the decision of the Full Bench of this Court in W.A.Nos.158 of 2016, etc, batch, dated 25.07.2019, within a period of eight (8) weeks from the date of receipt of a copy of this order. The writ petition is allowed accordingly. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

smn

To

1. The Secretary,
School Education Department,
Government of Tamil Nadu,
Fort St. George, Chennai.
2. The Accountant General of Tamilnadu,
(Accounts and Entitlements), Chennai.
3. The Director of School Education,
College Road, Chennai.
4. The Chief Educational Officer,
Virudhunagar District, Virudhunagar.

+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-9987[F])

+1 CC to M/s.B.PRAHALAD RAVI, Advocate (SR-10061[F])

+1 CC to M/s.SPL.GP (SR-10326[F])

**ORDER MADE IN
W.P(MD)No.4607 of 2020
04.03.2020**

SP(08.05.2020) 4P-8C