



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.5944 of 2020

K.M.Shanthi

... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its Secretary to Government
School Education Department,
Fort St. George,
Chennai -9.

2.The Director of School Education,
D.P.I. Campus,
College Road,
Chennai.

3.The Director of Personnel,
D.P.I. Campus,
College Road,
Chennai.

4.The Accountant General (Accounts and Establishments),
Accountant General Department,
Chennai - 625 018.

5.The Chief Educational Officer,
Office of Chief Educational Officer,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to consider the representation of the petitioner dated 24.11.2019 and to include 50% of her service as Part Time Vocational Teacher in her service register for the purpose of calculating the pension benefits within a stipulated time.

For petitioner

: Mr.S.Ramesh

For respondents 1 to 3 & 5

: Mr.A.Thiagarajan,
Government Advocate

For 4th respondent

: Mr.P.Gunasekaran



ORDER

By consent, this Writ Petition is taken up for final disposal at the stage of admission itself.

2. The learned counsel for the petitioner submitted that on 06.06.1985 she joined as Part Time Vocational Teacher in an Aided School and her service was regularised in a time scale of pay on 05.10.1996. On 05.10.2016, he was given special grade of pay. Thereafter, she retired from service on attaining the age of superannuation. The grievance of the petitioner is that her 50% of service as Part Time Vocational Teacher for the period between 06.06.1985 to 04.10.1996, has not been taken into account while calculating the pensionable service. Though similarly placed persons have been given pensionary benefit by taking 50% of service rendered by them as Part Time Vocational Teacher based on the orders passed in W.P.No.272 of 2008, dated 23.02.2011 and in W.P.No.3309 of 2014, etc. batch, dated 12.06.2014, the respondents have not extended the said benefit to her. Hence, she has come up with this writ petition for the aforesaid prayer.

3. Heard the learned counsel for both sides.

4. The issue involved in this writ petition has already been settled in various decisions of this Court as well as the Hon'ble Supreme Court. A Division Bench of this Court recently in the case of **K.Velmayil Vs. the Secretary to Government, Revenue Department, Chennai and others, [W.A. (MD).No.370 of 2019], dated 22.10.2019**, after referring to various decisions, has ultimately held in paragraph No.17 as follows:

"Leave alone the provisions of the Rules which have been given effect to or interpreted in several precedents including the two judgment relied upon by the learned Single Judge in this case in several judgments of Division Bench, this Court has taken a consistent view that the petitioners are entitled to count 50% of their past service they have rendered as Thalayaris upto 31.05.1995 along with the regular service for the purpose of pension. It is admitted that the decisions of this Court by the Division Bench have been confirmed by the Hon'ble Supreme Court in several cases. It is also admitted that the Government has implemented the consistent view expressed by this Court in several individual cases. It was on account of the fact that some of the precedents and the applicable rules have not been brought forth by the Government Pleaders properly before some of the learned Judges of this Court, the issue which has been raised by the Government has been answered against the Government in several precedents and the ratio settled by this Court has



been followed and implemented in several individual cases by the Government. In such circumstances, this Court is of the view that there is no scope for reference to a Larger Bench and that the order impugned in W.P.(MD).No.70 of 2019 is set aside. The Writ Petition in W.P.(MD.No.70 of 2019 stands allowed in tune with the earlier precedents of this Court. The first respondent is directed to pass orders counting 50% of the services of the appellant put in by him as Thalayari for the period from 07.01.1983 to 31.05.1995 for the purpose of calculation of pension along with regular services put in by him as Village Assistant and the Village Administrative Officer and to send revised pension proposals within a period of six weeks from the date of receipt of a copy of this order."

5. More over, in the recent Full Bench decision of this Court in a batch of writ appeals and writ petitions ie., in W.A.Nos.158, etc. batch, (Government of Tamil Nadu and others Vs. R.Kaliyamoorthy) dated 03.12.2019, it has been held that if the service of an employee has been regularised before 01.04.2003 only, his/her half of past service will be counted for the purpose of determination of qualifying service for pension.

6. Admittedly, in this case, the service of the petitioner has been regularised in the year 1996 itself and therefore, there would not be any impediment for the respondents in counting 50% of service rendered by the petitioner from 06.06.1985 to 04.10.1996 as qualified service for pension.

7. In view of the above, the respondents 1 to 3 and 5 are directed to send revised pension proposal to the 4th respondent calculating half of service put in by the petitioner as Part Time Vocational Teacher from 06.06.1985 to 05.10.1996, along with her regular service, within a period of eight weeks from the date of receipt of a copy of this order. On receipt of the same, the 4th respondent shall grant revised pension to the petitioner within a period of two weeks thereafter.

8. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1.The Secretary to Government
School Education Department,
Fort St. George,
Chennai -9.

2.The Director of School Education,
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5.The Chief Educational Officer,
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Madurai.

+1 CC to M/s.V.RAGAVACHARI, Advocate (SR-12814[F] dated
23/03/2020)

+1 CC to M/s.SPL.GP (SR-12934[F] dated 24/03/2020)

W.P. (MD) No.5944 of 2020
23.03.2020

KB(26/05/2020) 4P 8C