



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 01.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

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W.P.(MD) Nos.9721, 9723 to 9725, 9727 & 9228 of 2020,
2198 & 2199 of 2019, 24248 to 24250 of 2018
and

W.M.P.(MD) Nos. 8729, 8731, 8732, 8733, 8736 and 8413 of 2020

W.P.(MD) No.9721 of 2020

I.Sundaralingam

... Petitioner

Vs.

1) The State of Tamil Nadu,
Rep. by its Principal Secretary,
School Education Department,
Fort.St.George, Chennai 600 009

2) The Director of Primary Education,
College Road, Chennai 600 006

3) The District Educational Officer,
Vedasanthur, Vedasanthur.

4) The Block Educational Officer,
Gugiliamparai, Dindigul District

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned G.O.Ms. No.194 dated 12.09.2018 issued by the 1st respondent and quash the same with regard to the cut off date i.e. 06.04.2018 and directing the respondents to take the 50% of the part time service rendered by the petitioner i.e. from 09.09.1988 to 04.10.1996 along with the regular service for the pension benefits i.e. for the period of 25 years 09 months 08 days.

WP (MD) . 9723/ 2020

E.K. Saraswathi

... Petitioner

- Vs. -

1.The State of Tamilnadu
Rep by its Principal Secretary ,
School Education Department,
Fort St.George , Chennai - 09

2. The Director of Primary Education, College Road, Chennai - 06



3. The District Educational Officer, Vedasanthur, Vedasanthur.

4. The Block Educational Officer,, Gugiliamparai , Dindigul District.
... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the impugned G.O.Ms.No.194 dated 12/09/2018 issued by the 1st respondent and quash the same with regard to the cut of date i.e.06/04/2018 and directing the respondents to take the 50 percentage of the part time service rendered by the petitioner ie. from 21/11/1986 to 04/10/1996 for the pension benefits i.e., for the period of 04 years 11 months 07 days.

WP (MD) . 9724/ 2020

S.Mary

... Petitioner

- Vs. -

1.The State of Tamilnadu

Rep by its Principal Secretary ,
School Education Department ,
Fort St.George , Chennai - 09

2. The Director of Primary Education, College Road, Chennai - 06

3. The District Educational Officer,

Dindigul, Dindigul

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying this Court To issue a Writ or order or direction in the nature of Writ of Certiorarified Mandamus calling for the records of the impugned G.O.Ms.No.194 dated 12/09/2018 issued by the 1st respondent and quash the same with regard to the cut of date i.e.06/04/2018 and directing the respondents to take the 50% of the part time service rendered by the petitioner i.e.,from 19/07/1979 to 11/11/1997 along with the regular service for the pension benefits i.e., for the period of 25 years 23 months 15 days.

WP (MD) . 9725/ 2020

A. Fathima Rosalin Mary,

... Petitioner

- Vs. -

1. The State of Tamilnadu

Rep by its Principal Secretary ,
School Education Department ,
Fort St.George , Chennai - 09

2. The Director of Primary Education, College Road, Chennai - 06

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



3. The District Educational Officer, Vedasanthur , Vedasanthur.
 4. The Block Educational Officer, Reddiarchatram, Dindigul District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records of the impugned G.O.Ms.No.194 dated 12/09/2018 issued by the 1st respondent and quash the same with regard to the cut of date i.e.06/04/2018 and directing the respondents to take the 50 percentage of the part time service rendered by the petitioner ie. from 21/11/1986 to 04/10/1996 for the pension benefits i.e., for the period of 04 years 11 months 07 days.

WP (MD) . 9727/ 2020

A.Arul ... Petitioner

- Vs. -

- 1.The State of Tamilnadu Rep by its Principal Secretary,
School Education Department,
Fort St.George, Chennai-09.
 2. The Director of Primary Education, College Road, Chennai-06.
 3. The District Educational Officer, Vedasanthur, Vedasanthur.
 4. The Block Educational Officer, Reddiarchatram, Dindigul
District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying this Court To issue a Writ or order or direction in the nature of Writ of CERTIORARIFIED MANDAMUS calling for the records of the impugned G.O.Ms.No.194 dated 12.09.2018 issued by the 1st respondent and quash the same with regard to the cut of date i.e 06.04.2018 and directing the respondents to take the 50 percentage of the part time service rendered by the petitioner ie. from 17.01.1985 to 11.09.1995 along with the regular service for the pension benefits ie., for the period of 18 years 01 month 26 days.

WP (MD) . 9228/ 2020

K.B.Sakthimai ... Petitioner

- Vs. -

- 1.The State of Tamil Nadu
Rep by its Secretary, School Education Department,
Fort St.George, Chennai-09
- 2.The Joint Director (Vocational) of School Education,

<https://hcservices.tn.gov.in/hcservices>
College Road, Chennai-06



3. The District Educational Officer, Thallakulam, Madurai District
... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ or order or direction in the nature of Writ of Certiorarified Mandamus calling for the records of the impugned GO Ms.No.194 dated 12.9.2018 issued by the 1st respondent and quash the same with regard to the cut of date i.e., 6.4.2018 and directing the respondents to take the 50 percent of the part time service rendered by the petitioner's Husband K.S.Balakumar i.e., from 12.10.1981 to 31.3.1990 along with the regular service for the pension benefits i.e., for the period of 12 years 03 months and 30 days.

WP(MD). 2198/ 2019

K.Malarkodi, ... Petitioner

- Vs. -

- 1.The State of Tamilnadu,
Rep.By its Secretary,
School Education Dept.
Fort St. George, Chenani-9.
- 2.The Joint Director (Vocational) of School Education/
College Road, Chennai-06.
- 3.The District Educational Officer,
O/o.The District Educational Officer,
Dindigul District. ... Respondents

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 take the 50% of the part time service rendered by the petitioner ie. from 26.11.1981 to 31.03.1990 along with the regular service for the pension benefits ie., for the period of 31 years 02 months 00 days based on the judgment rendered by this Court in W.P.No. 14365 of 2014 etc dated 09.07.2018

WP(MD). 2199/ 2019

B.Jawahar Isaac Raj, ... Petitioner

- Vs. -

- 1.The State of Tamilnadu,
Rep.By its Secretary,
School Education Dept.
Fort St. George, Chenani-9.



2. The Joint Director (Vocational) of School Education, College Road, Chennai-06.
3. The Chief Educational Officer O/o. Chief Educational Office, Palani Road, Dindigul District ... Respondents

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Writ Petition filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to take the 50% of the part time service rendered by the petitioner ie. from 05.01.1985 to 05.10.1996 along with the regular service for the pension benefits ie., for the period of 24 years 07 months 25 days based on the judgment rendered by this Court in W.P.No. 14365 of 2014 etc dated 09.07.2018.

WP(MD) . 24248/ 2018

V.Elumalai, ... Petitioner

- Vs. -

1.The State of Tamil Nadu,

Rep. by its Secretary,
School Education Department,
Fort St.George, Chennai-09.

2. The Joint Director(Vocational) of School Education, College Road, Chennai-06.

3. The Chief Educational Officer, O/o.Chief Educational Officer, Dindigul District ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus, directing the respondents to take the 50% of the part time service rendered by the petitioner ie. from 02/07/1979 to 05/10/1996 along with the regular service for the pension benefits i.e., for the period of 27 years 06 months 13 days based on the judgment rendered by this court in W.P.No.14365 of 2014 etc dated 09.07.2018.

WP(MD) . 24249/ 2018

R.Vasanthi ... Petitioner

- Vs. -

1.The State of Tamil Nadu,

Rep. by its Secretary,
School Education Department,
Fort St.George, Chennai-09.

2. The Joint Director(Vocational)of School Education, College Road, Chennai-06.



3. The District Educational Officer, O/o.District Educational Office, Dindigul District ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus, directing the respondent to take the 50% of the part time service rendered by the petitioner ie. from 15.07.1983 to 31.03.1990 along with the regular service for the pension benefits i.e., for the period of 29 years 06 months 10 days based on the judgment rendered by this court in W.P.No.14365 of 2014 etc dated 09.07.2018.

WP (MD) . 24250/ 2018

T.Mabel Susila Rani, ... Petitioner

- Vs. -

1. The State of Tamil Nadu, Rep. by its Secretary, School Education Dept., Fort St.George, Chennai-09

2. The Joint Director (Vocational) of School Education, College Road, Chennai-06

3. The Chief Educational Officer O/o.Chief Educational Officer, Palani Road, Dindigul District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus, directing the respondents to take the 50% of the part time service rendered by the petitioner ie. from 31.07.1984 to 05.10.1996 along with the regular service for the pension benefits i.e., for the period of 26 years 0 months 29 days based on the judgment rendered by this Court in W.P.No.14365 of 2014 etc dated 09.07.2018.

In all cases:

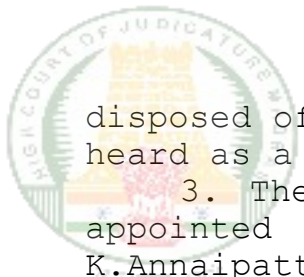
For Petitioner : Mr.R.Saravanan

For Respondents : Mr.A.Thiyagarajan,
Government Advocate

O R D E R

The prayer sought for in this writ petition is for a Writ of Certiorarified Mandamus, seeking to call for the records of the impugned G.O.Ms.No.194, dated 12.09.2018 issued by the 1st respondent and quash the same with regard to the cut off date i.e., 06.04.2018 and direct the respondents to take the 50% of the part time service rendered by the petitioner i.e. from 09.09.1988 to 04.10.1996 along with the regular service for the pension benefits i.e. for the period of 25 years 09 months 08 days.

2. The issue raised in these writ petitions are one and the same and in view of the same, the learned counsel appearing on both sides submit that, these writ petitions can be heard together and



disposed of by a common order. Accordingly, these writ petitions are heard as a batch of cases and disposed of by this common order.

3. The petitioner in W.P.(MD) No.9721 of 2020 was initially appointed as Part Time Vocational Teacher on 09.09.1988 at K.Annaipatti Panchayat Union Middl School, Gugiliamparai Taluk. Subsequently, he has been brought into the regular time scale of pay from 05.10.1996. Thereafter, having served for several years, on superannuation, he retired from service on 30.06.2018.

4. On retirement, he has been sanctioned pension and he is getting pension.

5. In this regard, his grievance is that, though he worked several years prior to 05.10.1996, such service was not taken into account for the purpose of pensionary benefits and only the service rendered by him from 05.10.1996 till his superannuation (i.e.) on 30.06.2018 alone was taken into service.

6. Learned counsel appearing for the petitioner in this regard would submit that, the issue as to whether the past service rendered by such part time Vocational Instructors can be taken into account for the purpose of total pensionable service, has already been decided in a number of cases by this Court. In this regard, learned counsel appearing for the petitioner has relied upon the following judgments:-

(i) W.P.(MD) Nos.16771 to 16775 of 2013.. etc (batch), dated 09.04.2014;

(ii) W.P.(MD) Nos.3309 to 3318 of 2014 ...etc (batch), dated 12.06.2014;

(iii) W.P.No.23241 of 2015, dated 31.07.2015;

(iv) W.A.(MD) Nos.392 of 2017 ...etc (batch), dated 21.04.2017;

(v) W.P.(MD) Nos.14365 of 2014 ...etc (batch), dated 09.07.2018; and

(vi) W.A.No.1396 of 2017, dated 26.06.2019

7. I had an occasion to consider a similar issue in a batch of cases in W.P.(MD) No.14365 of 2014...etc (batch) filed on 09.07.2018 where, in those writ petitions, the relief was granted by giving direction to the Authority / Employer that, 50% of the service rendered by them before they were brought under regular time scale of pay, shall be taken into account for the total pensionable service to be calculated for the purpose of pension.

8. Following the said order dated 09.07.2018, another batch of writ petitions were also ordered in W.P.(MD).No.1910 of 2016 etc., batch in the matter of A.Sebastian Amalorpavamary v. The State of T.N., Rep. by its Secretary, Department of Finance (Pension) and others by order, dated 23.07.2018. Against the said order, an Intra-Court appeal was filed in W.A.(MD) No.517 of 2020, where a Division Bench of this Court by judgment, dated 13.08.2020, while rejecting

<https://hds.cemilts.gov.in/hdservices> appeal has made the following observations:-



"5. The petitioner in this regard, has submitted a representation and despite receipt and acknowledgement, no order has been passed and hence, he came forward to file the writ petition. Similar matters were grouped and taken up together by the learned Single Judge and the learned Single Judge, by common order dated 23.07.2018, had exhaustively analysed the factual aspects and the legal position as well as all the earlier decisions rendered in this regard and disposed of a batch of cases in W.P(MD)Nos.1910 of 2016, etc., and it is relevant to extract hereunder paragraph 10:

"10. Accordingly, all these writ petitions are ordered and insofar as some of the writ petitions ie., W.P.(MD) Nos.15469 to 15476/2018, where rejection orders have been challenged, the said impugned orders are hereby quashed and the said writ petitions are also ordered in the terms of the said order dated 09.07.2018 by giving the following directions: "the respective respondents in each of the writ petitions are hereby directed to take into account the 50% of the past services rendered by each of the petitioners either as Vocational Instructors or any other employment either as a Part Time / Full time / adhoc / temporary / daily wages employees before they brought in under the regular time scale of pay on permanent basis or absorption and by calculating the said 50% of their past service, pension eligibility and pension enhancement or difference of pay and pension shall be calculated and disbursed in favour of the respective petitioners. After fixing the revised pension by taking into account the past 50% services, the revised pension arrears shall be calculated and to be disbursed to the petitioners within a period of 12 weeks from the date of receipt of a copy of this order. It is needless to mention that the petitioners shall continue to receive the revised pension." No costs. Consequently connected Miscellaneous Petitions are closed."

6. Challenging the legality of the said order passed in W.P.(MD).No. 15904 of 2018, the present Writ Appeal is filed.

7. The learned Special Government Pleader appearing for the appellants/official respondents has drawn the attention of this Court to the common judgment dated 06.04.2018 in W.A.No.882 of 2017, etc., batch of Government of Tamil Nadu, represented by its Secretary



to Government, School Education Department, Chennai - 9 and Others v. K.Pachaiyappan and other] and it is the forceful submission of the learned Special Government Pleader appearing for the appellants/official respondents that the Division Bench while disposing of the Writ Appeal had shifted the cut-off date as the delivery of the said judgment, viz., 06.04.2018 and admittedly, the affidavit in the writ petition came to the sworn only on 17.07.2018, which is beyond cut-off date and that apart, though the writ petitioner had attained the age of superannuation on 04.06.2012, had waited for nearly six years on the sidelines and after knowing about the disposal of the cases, suddenly jumped into bandwagon and claimed relief and since the respondent/writ petitioner is guilty of delay and laches, he is not entitled to get any relief in this writ appeal.

8. During the course of arguments, the attention of this Court was also invited to the decision rendered by a Full Bench of this Court in Government of Tamil Nadu, Represented by its Secretary to Government, Public Works Department and others v. R.Kaliyamoorthy, reported in (2019) 6 CTC 705, wherein, one of the issues is relating to the counting of 50% of the service for the purpose of terminal benefits, in the light of the proviso to Rule 2 of the Tamil Nadu Pension Rules, 1978 and in paragraph 45, answered the references as follows:

"45. 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



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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."

9. No doubt, the writ petitioner had approached the Court with a few months delay and it is not in dispute that but for the fixation of cut-off date, he would have been entitled to the benefits of service rendered by him as a Double Part Time Vocational Instructor. The learned Judge in the impugned common order had also referred to the above cited common judgment dated 06.04.2018, made in W.A.No.882 of 2017 etc., and having noted the fact that persons similarly placed have been granted the benefits and also taking note of various pronouncements of the Hon'ble Supreme Court of India, had held that the writ petitioners are entitled to such benefits.

10. Admittedly, the fact of the case would disclose that the petitioner had approached the Court with a delay of three months and in the light of answering of the references in paragraph No.45 of the above cited Full Bench judgment [(2019) 6 CTC 705] (supra), this Court finds no merit in this Writ Appeal. However, it is made clear that if at all any future claim is made by any persons who are similarly placed like that of the writ petitioners who had worked as Single/Double Part Time Vocational Instructors, they are not entitled for any interest on the settlement of the retiral/terminal benefits.

11. In the result, Writ Appeal is dismissed, subject to the above observations, confirming the the order dated 23.07.2018, passed in W.P(MD)No.15904 of 2018. No costs. Consequently, the connected civil miscellaneous petition is also dismissed.

9. So the only modification made by the Division Bench is that, those who filed writ petitions seeking the similar relief as that of the one presently asked by the petitioner, after 06.04.2018, shall not be entitled to claim any interest for the arrears to be paid, after taking into account the past service rendered by them for the purpose of pensionable benefits.

<https://hcservices.courts.gov.in/hcservices/> the said modification, in all respects, the Writ



Court order has been confirmed by the latest Division Bench judgment, dated 13.08.2020 referred to above.

11. In view of the same, these Writ Petitions are also ordered with the following directions:

(i) the impugned orders, for the reasons cited therein, cannot be sustained. Therefore, they are liable to be quashed;

(ii) Accordingly, they are quashed and the matters are remitted back to the third respondent for re-consideration, while re-considering the same, the third respondent shall take into account the aforesaid legal position and accordingly pass necessary orders extending the benefits of taking into account of the 50% of past service rendered by the petitioners as Vocational Instructors and accordingly, whatever benefits available to them, both service as well as pensionary benefits can be extended to them; and

(iii) The necessary revised orders after reconsideration, as indicated above, shall be passed by the third respondent within a period of two(2) months from the date of receipt of a copy of this order.

12. Accordingly, the Writ Petitions stand ordered. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

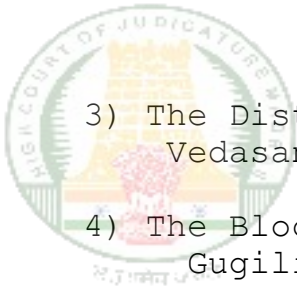
Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1) The Principal Secretary,
School Education Department,
Fort.St.George, Chennai 600 009

2) The Director of Primary Education,
College Road, Chennai 600 006

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



- 3) The District Educational Officer,
Vedasanthur, Vedasanthur.
- 4) The Block Educational Officer,
Gugiliamparai, Dindigul District
- 5) The Block Educational Officer,
Reddiarchatram, Dindigul District.
- 6) The Joint Director(Vocational),
School Education, College Road,
Chennai.
- 7)The District Educational Officer,
Tallakulam, Madurai.
- 8)The District Educational Officer,
Dindigul.
- 9)The Chief Educational Officer,
Palani Road, Dindigul.

+12 CC to M/s.R. SARAIVANAN, Advocate (SR-15629[F] dated
02/09/2020)

Common Order made in
W.P. (MD) Nos.9721, 9723 to 9725,
9727 & 9228 of 2020,
2198 & 2199 of 2019,
24248 to 24250 of 2018
Dated:
01.09.2020

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KK(19.11.2020) 12P 22C