



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.08.2020**

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.10466 of 2020

M.Gopalapillai

...Petitioner

-Vs-

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to the Government,
Department of School Education,
Fort St. George,
Chennai-9.
- 2.The Director of School Education,
O/o.the Director of School Education,
DPI Campus, College Road,
Chennai-6.
- 3.The Joint Director of School Education (Vocational),
O/o.the Joint Director of School Education (Vocational),
DPI Campus, College Road,
Chennai-6.
- 4.The Chief Educational Officer,
O/o.the Chief Educational Officer,
Kanyakumari,
Kanyakumari District.
- 5.The Principal Accountant General (A & E),
O/o.the Principal Accountant General (A & E),
361, Anna Salai,
Chennai-600 018.
- 6.The District Educational Officer,
O/o.the District Educational Officer,
Thuckalay,
Kanyakumari District.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to re-fix the petitioner's pension by including the 50% of the service rendered by the petitioner as Part Time Vocational instructor in consolidated pay along with regular service i.e., from 01.06.1981 to 31.03.1990 with all other consequential benefits in the light of the



Judgment of this Hon'ble Court in W.P(MD)No.795 to 797 of 2018 dated 12.02.2018 within the time period stipulated by this Hon'ble Court.

For Petitioner : Mr.T.Aswin Rajasimman
For R1 to R4 & R6 : Mrs.S.Srimathy,
Special Government Pleader
For R5 : Mr.P.Gunasekaran

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ORDER

The prayer sought for in this writ petition is for a Writ of Mandamus, directing the respondents to re-fix the petitioner's pension by including the 50% of the service rendered by the petitioner as Part Time Vocational instructor in consolidated pay along with regular service i.e., from 01.06.1981 to 31.03.1990 with all other consequential benefits in the light of the Judgment of this Hon'ble Court in W.P(MD)No.795 to 797 of 2018 dated 12.02.2018 within the time period stipulated by this Court.

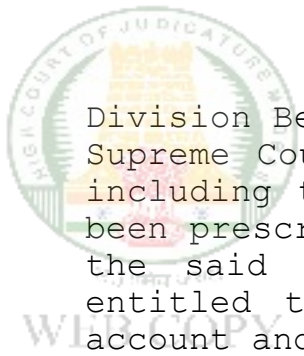
2.Heard Mr.T.Aswin Rajasimman, learned counsel appearing for the petitioner, Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondent 1 to 4 & 6 and Mr.P.Gunasekaran, learned Standing Counsel appearing for the fifth respondent.

3. The petitioner was initially appointed as Part Time Vocational Instructor at the respondents department and working in that capacity for several years and thereafter, he had been brought under regular time scale of pay. Subsequently, on attainment of superannuation, he retired from service, thereafter, he received the retiral benefits. In this context, it is the case of the petitioner that, while calculating the pensionable service to the petitioner, only the service rendered by him from the date he has been brought under the regular time scale of pay alone has been considered and the service rendered by him as Part Time Vocational Instructor has not been considered.

4. In this context, the learned counsel appearing for the petitioner would submit that, the issue as to whether at least 50% of the past service rendered by this kind of Part Time Vocational Instructors can be taken into account for calculation of total pensionable service, is no more *res integra* and number of cases in this regard, has been decided already by this Court.

5. In this context, the learned counsel appearing for the petitioner has relied upon a judgment of mine, dated 09.07.2018, in W.P(MD)No.14365 of 2014 in the matter of ***A.Ramalingam Vs. The State of Tamil Nadu rep. by its Secretary, School Education Department, Fort St., George, Chennai-09 and others.***

6. The learned counsel appearing for the petitioner would also submit that, in the said judgment, this Court referred to earlier

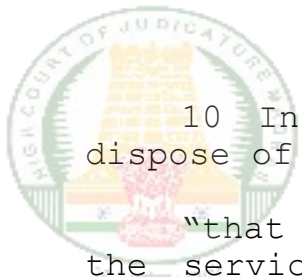


Division Bench Judgments as well as the orders passed by the Hon'ble Supreme Court of India and the subsequent Division Bench judgments including the judgment dated 06.04.2018, where a cut off date has been prescribed by which only those who filed a writ petition before the said cut off date i.e., on or before 06.04.2018 would be entitled to have the benefit and others need not be taken into account and ultimately, an order was passed on 09.07.2018.

7. The learned counsel appearing for the petitioner also would submit that, the said order, dated 09.07.2018 in the matter of **A.Ramalingam's case** was appealed by the respondent State Government in W.A(MD)No.517 of 2020, where a Division Bench of this Court, by order dated 13.08.2020 in the matter of the **State of Tamil Nadu, Rep. by its Secretary School Education Department, Fort St. George, Chennai and two others vs. Mr.S.Durairaj and another**, has confirmed the said order dated 09.07.2018 and dismissed the writ appeal. However, one modification was given by the Division Bench by its order, dated 13.08.2020, stating that, those who have filed writ petitions subsequent to 06.04.2018 would not be entitled to get interest on the settlement of retiral and pensionable benefits. Therefore, the learned counsel appearing for the petitioner would submit that, in view of the aforesaid judgment, the issue has already been settled, therefore, the petitioner is also entitled to get the benefit of calculating 50% of service rendered by him as Part Time Vocational Instructor for the purpose of his total pensionable service.

8. The learned Special Government Pleader appearing for the respondents 1 to 4 & 6 and the learned Standing Counsel appearing for the 5th respondent would fairly submit that a number of orders have been passed in that line and the Writ Court order dated 09.07.2018 has also been confirmed by the recent order of the Division Bench, dated 13.08.2020 referred to above, the benefit sought for by the petitioner can also be extended to him and accordingly, the writ petition can be disposed of.

9. The said fair submission made by the learned counsel appearing for the respondents is hereby taken on record. As has been rightly pointed out by the learned counsel for the petitioner, the issue raised herein is no more *res integra*, as number of cases has been decided more than once and the issue has gone up to the Hon'ble Supreme Court, where also similar view was taken and following which, this Court passed number of orders and one such order is referred to above i.e., W.P.(MD)No.14365 of 2014 etc., batch, dated 09.07.2018, where, I had an occasion to deal with the issue exhaustively and the said order having been confirmed by the Division Bench by order dated 13.08.2020 referred to above, this Court feels that, the petitioner also is similarly placed person, he would be entitled to get the same benefits.



10 In that view of the matter, this Court is inclined to dispose of this writ petition, with the following direction:

"that the respondents are hereby directed to calculate 50% of the service rendered by the petitioner as Part Time Vocational Instructor for the purpose of his total pensionable service and accordingly, his pension shall be refixed and after refixing the same, the newly fixed pension shall be calculated and accordingly, the same would be paid to the petitioner with arrears. Further, it is made clear that, since the petitioner has filed the writ petition after the cut off date, he is not entitled to get the interest for the belated payment of arrears of revised pension. The aforesaid needful shall be undertaken by the respondents, within a period of three months from the date of receipt of a copy of this order.

11. With this observations and direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

// 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 to the Government,
Department of School Education,
Fort St. George,
Chennai-9.
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai-6.
- 3.The Joint Director of School Education (Vocational),
DPI Campus, College Road,
Chennai-6.
- 4.The Chief Educational Officer,
Kanyakumari,
Kanyakumari District.



5.The District Educational Officer,
Thuckalay,
Kanyakumari District.

+1 CC to SPL GP (SR-15538[F] dated 01/09/2020)

Order made in

W.P. (MD) No.10466 of 2020

31.08.2020

VB (20.11.2020) 5P 7C