



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2020

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P. (MD) No.11442 of 2020

P.Venkataraman

...Petitioner

-Vs-

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Department of School Education,
Fort St.George, Chennai-600 009.
- 2.The Director of School Education,
O/o.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
- 3.The Joint Director of School Education (Vocational),
O/o.the Joint Director of School Education (Vocational),
Chennai-6.
- 4.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Madurai, Madurai District.
- 5.The Secretary,
TVS Higher Secondary School,
Lakshmi Poram, Madurai District.
- 6.The Principal Accountant General (A&E),
O/o.The Principal Accountant General (A&E),
361, Anna Salai, Chennai-600 018. ...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 3 and 4 to count 50% of the part time service rendered by the petitioner from 19.09.1984 to 31.03.1990 along with regular service for the purpose of calculation of qualifying service for pension with all other consequential benefits by considering the representation of the petitioner dated 11.09.2019 within the time stipulated by this Court.

For Petitioner	: Mr.S.Louis
For R1 to R4	: Mrs.S.Srimathy, Special Government Pleader.
For R6	: Mr.P.Gunasekaran



ORDER

The prayer sought for herein is for a Writ of Mandamus, directing the respondents 3 and 4 to count 50% of the part time service rendered by the petitioner from 19.09.1984 to 31.03.1990 along with regular service for the purpose of calculation of qualifying service for pension with all other consequential benefits by considering the representation of the petitioner dated 11.09.2019, within the time stipulated by this Court.

2. Heard Mr.S.Louis, learned counsel appearing for the petitioner, Mrs.S.Srimathy, learned Special Government Pleader, who takes notice on behalf of the respondents 1 to 4 and Mr.P.Gunasekaran, learned counsel, who takes notice on behalf of the 6th respondent.

3. With the consent of the learned counsel on both sides, this Writ Petition is taken up for final hearing and disposed of at the admission stage itself. Since no adverse order is going to be passed against the 5th respondent, notice to the 5th respondent is dispensed with.

4. The petitioner was appointed as Vocational Instructor on 19.09.1984. Thereafter, from 01.04.1990, he was regularized in the post of Vocational Instructor. After serving for long years on superannuation, he was retired on 30.11.2015. Thereafter, for pensionary benefits, the service rendered by him only from 01.04.1990 to 30.11.2015 was taken into account. However, the service rendered by him from the date of his original appointment in consolidated pay from 19.09.1984 till 01.04.1990 has not been taken into account. In this regard, it is the case of the petitioner that similar issue has already been disposed of or decided by this Court in many number of cases, where following the Division Bench's order, several Writ Petitions were allowed and Mr.S.Louis, learned counsel appearing for the petitioner would rely upon a decision of this Court dated 31.07.2018, where I had an occasion to decide W.P.(MD) Nos.16864 and 16926 of 2018 in the matter of **S.Venkatachalam Vs. The Principal Secretary to the Government, Department of School Education and others**, where I have passed the following order:-

"8. Since the said issue has been considered and decided already in number of cases and in some of the cases, even though appeal filed before the Hon'ble Apex Court, the decision rendered by this Court has been confirmed and accordingly, in those cases, the orders passed by this Court have been complied with. When that being the position, since the petitioner in W.P.(MD) No. 16926 of 2018 is still working as Vocational Instructor and the writ petitioner in W.P.(MD) No.16864 of 2018 has already retired, and in both, the benefits now sought by these petitioners given raise to them as a continuous cause of action and therefore, the accrued right on the



part of the petitioners and it is still accruing every month cannot be taken away merely by placing a predicament or impediment that those, who approaches this Court belatedly, cannot be granted the relief or extended the similar relief extended to similar persons.

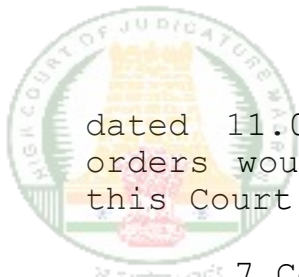
9. In this regard, in the aforesaid decision of Mine, I have given a detailed and thorough consideration on the case laws and in view of the settled legal propositions, the said embargo, as has been taken by the learned Special Government Pleader in those batch of cases, by citing the said Division Bench judgment dated 06.04.2018, cannot be applicable to these cases also. Hence, this Court has no hesitation to grant the similar relief, which have already been granted to similarly persons, to these writ petitioners also.

10. Accordingly, these writ petitions are ordered in the terms of the said order dated 09.07.2018 by giving the following directions:

"the respective respondents in both 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."

5. Relying upon the said decision as well as various other decisions, the learned counsel appearing for the petitioner would submit that, despite the number of orders having been issued in this regard, the service of the petitioner rendered prior to 01.04.1990 from the date of his original appointment since has not been considered, a representation dated 11.09.2019 has been made to the respondents and the said representation has so far not been considered, hence the petitioner is before this Court, he contented.

6. Heard Mrs.S.S.Srimathy, learned Special Government Pleader appearing for the respondents 1 to 4 she would submit that, in view of the settled legal position, the representation of the petitioner



dated 11.09.2019 would be considered and accordingly, necessary orders would be passed, within a period that may be stipulated by this Court.

7. Considering the submissions made by both the learned counsel and by taking into account the factual matrix of this case, this Court is inclined to pass the following order:-

"that as the issue raised in this Writ Petition has already been considered, there can be no impediment for the respondents to consider the request of the petitioner to calculate his past service rendered by him prior to 01.04.1990, the date on which his service was regularized with time scale of pay and accordingly, the service rendered by him under consolidated pay from 19.09.1984 till 31.03.1990 shall be considered for the purpose of calculating the pensionary benefits and accordingly, his pension may be revived and orders to that effect can be passed on the representation of the petitioner dated 11.09.2019, within a period of eight (8) weeks from the date of receipt of a copy of this order."

8. With this direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

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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,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai-600 009.

2. The Director of School Education,
O/o. The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.



3.The Joint Director of School Education (Vocational),
O/o.the Joint Director of School Education (Vocational),
Chennai-6.

4.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Madurai, Madurai District.

+1 CC to M/s.S. LOUIS, Advocate (SR-16785[F] dated 14/09/2020)

+1 CC to M/s.GP (SR-16858[F] dated 15/09/2020)

Order made in
W.P. (MD) No.11442 of 2020
11.09.2020

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