

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2908 of 2021

A.Manoharan

... Petitioner

Vs.

1. The State of Tamil Nadu,
through its Secretary,
Department of School Education,
Fort St. George,
Chennai - 9.
 2. The Director of School Education,
D.P.I. Campus, College Road,
Chennai.
 3. The Joint Director of School Education (Vocational),
College Road, Chennai 6.
 4. The Chief Education Officer,
Salem District.
 5. The District Educational Officer,
Edapadi, Salem District.
 6. The Correspondent and Headmaster,
Nirmala Higher Secondary School,
Kolathur, Salem District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the Respondents to consider the representation of the Petitioner dated 17.12.2020 in the light of the Full Bench judgment made in W.A.Nos.158, etc. batch (Government of Tamil Nadu and others vs. R.Kaliyamoorthy) dated 03.12.2019, reported in (2019) 6 CTC 705, and re-fix the Petitioner's pension by including 50% of service rendered by the Petitioner as Double Part Time Vocational

Teacher from 11.07.1986 to 15.10.1992, within the time stipulated.

For Petitioner : Mr.S.Kousik
For Respondents : Mr.P.Raja,
Government Advocate

O R D E R

Petitioner has come up with this Writ Petition seeking a direction to the Respondents to consider his representation, dated 17.12.2020 in the light of the Full Bench judgment made in W.A.Nos.158, etc. batch (Government of Tamil Nadu and others vs. R.Kaliyamoorthy) dated 03.12.2019, reported in (2019) 6 CTC 705, and re-fix his pension by including 50% of the service rendered by him as Double Part Time Vocational Teacher from 11.07.1986 to 15.10.1992.

2. Admittedly, in the case on hand, the service of the Petitioner has been regularized in the year 1992 itself. Hence, the Petitioner made a representation to the Respondents on 17.12.2020 and requested them to include 50% of his service as Part-time Vocational Teacher for the purpose of calculating the pension benefits from 11.07.1986 to 15.10.1992 and to disburse the same. Since there is no response on the side of the Respondents, the Petitioner has come up with the above Writ Petition.

3. Learned counsel for the Petitioner relied upon a Full Bench decision of this Court in a batch of Writ Appeals and Writ Petitions i.e. in W.A.No.158 of 2016 etc. batch, dated 03.12.2019, wherein, this Court held that, if the service of an employee has been regularized before 01.04.2003 only, his half of past service will be counted for the purpose of determination of qualifying service for pension. For better appreciation, relevant portion of the said judgment is extracted hereunder:

"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 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."

4. Heard the learned counsel on either side and perused the material documents available on record.

5. In view of the limited relief sought for by the Petitioner, this Court directs the official Respondents to consider the Petitioner's representation, dated 17.12.2020 in the light of the Full Bench Judgment of this Court rendered in W.A.Nos.158, etc batch dated 03.12.2019, if the Petitioner is found to be eligible and if his case comes under the purview of the said Judgment of the Full Bench of this Court, and pass appropriate orders in accordance with law, as early as possible,

preferably within a period of three months from the date of receipt of a copy of this order.

6. The Petitioner shall furnish his phone number, Email ID, if any, etc., along with a copy of the representation dated 17.12.2020 and a copy of this order to the Respondents. Respondents are directed to communicate the decision taken on the representation, to the Petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/Registered Post/Speed Post, so that there is no need for the parties to file a Contempt Petition after expiry of the specified period. In case, Authorities concerned fail to send communication to the parties, they will have to face civil imprisonment in case of contempt proceedings and, if they are unable to serve the order and the cover being returned unserved for one reason or the other, the same shall be kept in the file without opening it for the sake of proof of delivery, so that the parties, at a later point of time, will not take a plea that, they are not aware of the order of this Court.

With the above direction, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai - 9.
2. The Director of School Education,
D.P.I. Campus, College Road,
Chennai.
3. The Joint Director of School Education (Vocational),
College Road, Chennai 6.

4. The Chief Education Officer,
Salem District.
5. The District Educational Officer,
Edapadi, Salem District.

+1cc to Mr.K.Sathish Kumar, Advocate, S.R.No.7472.
+1cc to the Government Pleader, S.R.No.7860.

W.P.No.2908 of 2021

PL(CO)
CSR 11/03/2021



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