

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5876 of 2021
(Heard through VC)

R.Padmavathi

.. 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 Chief Educational Officer,
O/o. The Chief Educational Officer,
Virudhunagar,
Virudhunagar District.
- 4.The Headmaster,
Government Girls Higher Secondary School,
Sendurai,
Ariyalur District.

.. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 07.12.2020 requesting to count 50% of the Part time service rendered by the petitioner from 05.06.1987 to 16.10.1992 along with the regular service for the pension benefits within the time stipulated by this Court.

For Petitioner : Mr.S.Louis

For Respondents: Mr.P.Raja
Government Advocate

O R D E R

The petitioner has come forward with this writ petition seeking a direction to the respondents to consider her representation dated 07.12.2020 requesting to count 50% of the Part time service rendered by her from 05.06.1987 to 16.10.1992 along with the regular service for the pension benefits.

2. Mr.P.Raja, learned Government Advocate takes notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner she was appointed as Double Part Time vocational Instructor on 05.06.1987 at TPNM Girls Higher Secondary School and thereafter, she was regularized in the post of Full Time Vocational Instructor. The Government passed a G.O.No.68 dated 20.03.2007 stating that the vocational teachers can be appointed on par with B.T. Assistant. Though she was appointed as Double Part Time Vocational Teacher on 05.06.1987, she was doing the job on full time basis. However, while calculating the pension benefits the period of service rendered by the similarly placed persons had not been considered. They approached this Court by way of filing a writ petition and this Court by order dated 16.04.2009 had directed to consider 50% of the part time service for the purpose of calculating the pension. The appeal preferred by the Government before the Supreme Court was also dismissed. It is submitted that G.O.Ms.No.408 dated 25.08.2009 and the findings of this Court establish the fact that 50% of the part time service had to be calculated for the pension benefits. Hence, she made a detailed representation to the respondents dated 07.12.2020 and the same is not considered till date. Hence, the petitioner is before this Court.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondents, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondents herein to consider the representation submitted by the petitioner dated 07.12.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 90 days from the date of receipt of a copy of this order.

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondents shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 07.12.2020 and this order, to the respondents forthwith;

v) The 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 petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

rsi
To

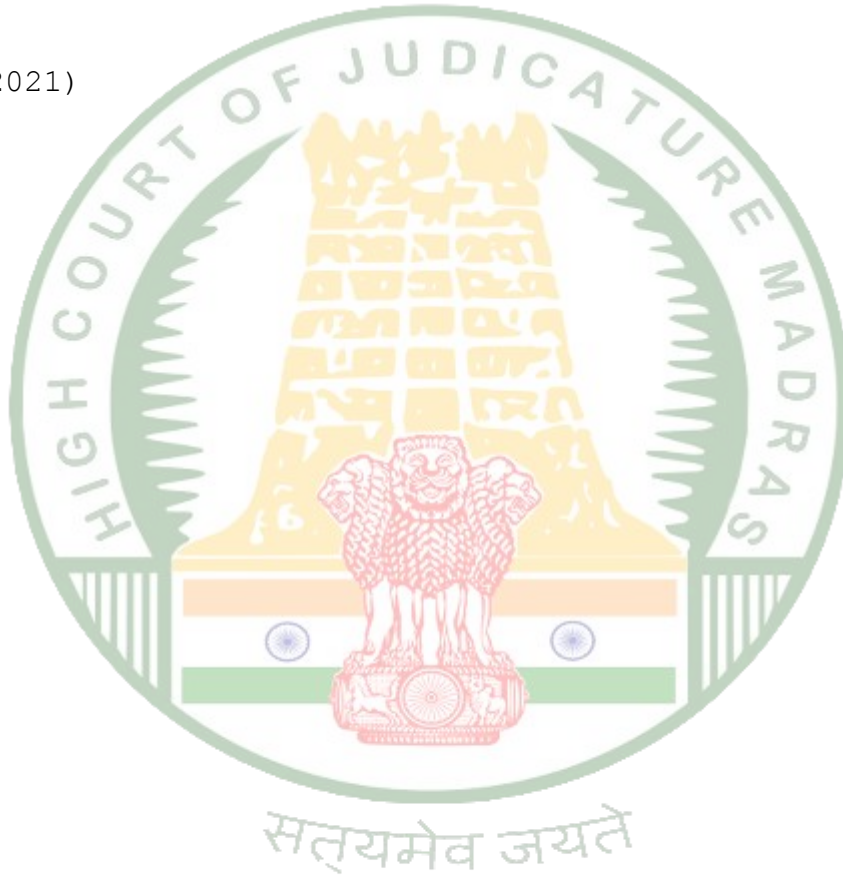
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AJB (CO)
CB(30/06/2021)



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