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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

W.A.NO.1728 OF 2018
AND
C.M.P.NO.13807 OF 2018

1. The State Rep. by
The Secretary,
Higher Education (2) Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Commissioner of Technical Education,
Directorate of Technical Education (Engineering),
Guindy, Chennai - 600 025.
3. The Principal,
Government Engineering College,
Salem - 11.

... Appellants/Respondents

.Vs.

C.Govindaraju

... Respondent/Petitioner

PRAYER:-

Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order dated 31.07.2015 passed in W.P.No.22702 of 2015 and allow the Writ Appeal.

Prayer in W.P.No.22702 of 2015:-

Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for the records in pursuant to the letter No.(T) No.152, dated 19.06.2015, passed by the 1st respondent and quash the same and direct the respondents to regularize the petitioner's services with effect from 01.01.1994 in the cadre of watchman with monetary benefits and further direct the respondents to



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sanction and pay all retirement benefits payable to the petitioner upon his retirement.

For Appellants : Mr.K.Tippusultan
Government Advocate

For Respondent : Mr.M.Elango

J U D G M E N T

(Judgment of the Court was delivered by S.VAIDYANATHAN,J)

This Writ Appeal has been filed against the order dated 31.07.2015 passed in W.P.No.22702 of 2015, in directing the First Appellant to count 50% of service rendered by the writ petitioner before regularization along with the service rendered after regularisation for the purpose of pension and other terminal benefits in the light of Rule 11(2) of the Tamil Nadu Pension Rules and also various Judgments of this Court and submit a proposal for the terminal benefits for authorization before the Principal Accountant General of Tamil Nadu, Chennai, within a period of eight weeks from the date of receipt of a copy of that order and the Principal Accountant General of Tamil Nadu, Chennai is directed to authorise the same, within a period of two weeks thereafter.

2. When the matter is taken up for hearing, the learned Government Advocate drew attention of this Court to the earlier order of this Court dated 19.07.2021 directing the Registry to tag the present Appeal along with W.A. (MD)No.1218 of 2018 etc., batch and thereafter the same was decided by Full Bench of this Court on 25.07.2019, in W.A.Nos. 158, 314 /2016 etc., batch, wherein the Court has passed the following order.

"46.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



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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 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) (1) of Tamil Nadu State and Subordinate Service Rules 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."

3. It is not in dispute that the Writ Petitioner/Respondent herein is also similarly placed. Even during the pendency of the Writ Petition, the Government has passed G.O.(Ms) No.90 dated 03.03.2016 with regard to implementation of the order dated 31.07.2015 in W.P.No.22702/2015, wherein it has been categorically stated that the benefits extended will be without prejudice to the rights in the Appeal filed by the Government. Pursuant to the said Government Order, the services of the Writ Petitioner was regularised vide proceedings of the 3rd Appellant dated 09.11.2017.

4. It is represented by the learned Government Advocate that after the orders of the Full Bench, benefits have been curtailed and that the pensionary benefits from the date of regularisation will be extended from 01.10.2020. However, he further submitted that taking note of the fact that the Writ Petitioner is a Group IV employee, the Government may consider waiver of the amount already paid to him.



5. With the above observations, this Writ Appeal is disposed of in the light of the Judgment of the Full Bench of this Court dated 25.07.2019. No costs. Consequently, connected M.P. is closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Higher Education (2) Department,
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Chennai - 600 009.
2. The Commissioner of Technical Education,
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W.A.NO.1728 OF 2018

PVS(CO)
PBS/25/10/2021