



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2021

CORAM:

THE HONOURABLE DR JUSTICE ANITA SUMANTH

W.P.(MD) Nos.24941 to 24947 of 2018

and

W.P(MD)Nos.19570 and 19571 of 2018

In W.P(MD)No.24941 of 2018:

G.Vasimalai

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George, Chennai.

2.The Principal Accountant General (G & SSA),
'Lekha Pariksha Bhavan'
No.361, Anna Salai,
Teynampet,
Chennai - 600 018.

3.The Director of School Education,
College Road, Chennai.

4.The Chief Educational Officer,
Theni District, Theni.

5.The District Educational Officer,
Uthamapalayam,
Theni District.

... Respondents

PRAYER in W.P(MD)No.24941 of 2018:: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct the respondents to take 50% of the part time service rendered by the petitioner i.e from 02.08.1988 to 15.10.1992 which comes to 4 years, 2 months and 13 days as per educational academic year has been counted to arrive along with the regular service for the pension benefits and provide consequential benefits to the petitioner within the time stipulated by this Court.



In W.P(MD)No.24942 of 2018:

1.K.Krishna Moorthy

... Petitioner
in WP(MD).24942 of 2018

Vs

WEB COPY

- 1.The State of Tamilnadu,
Rep.By its Principal Secretary,
School Education Department,
Fort.St.George,
Chennai.
- 2.The Principal Accountant General(G&SSA),
Lekha Pariksha Bhavan,
No.361, Anna Salai,
Teynampet,
Chennai - 18.
- 3.The Director of School Education,
College Road,
Chennai.
- 4.The Chief Educational Officer,
Theni District,
Theni.
- 5.The District Educational Officer,
Uthamapalayam,
Theni District.

...Respondents in
WP(MD).No. 24942 of 2018

Prayer in WP(MD). 24942/ 2018 :

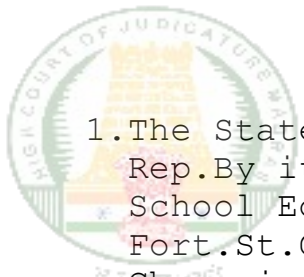
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus to directing the respondents to take 50% of the part time service rendered by the petitioner i.e. from 07/06/1989 to 05/10/1996 which comes to 7 years , 3 months and 28 days, as per educational academic year has been counted to arrive along with the regular service for the pension benefits to the petitioner and provide consequential benefits to the petitioner within the time stipulated by this Court.

In W.P(MD)No.24943 of 2018:

1.G.Narayanasamy

...Petitioner in
WP(MD).No.24943 of 2018

vs



1.The State of Tamilnadu,
Rep.By its Principal Secretary,
School Education Department,
Fort.St.George,
Chennai.

WEB COPY

2.The Principal Accountant General (G&SSA) ,
Lekha Pariksha Bhavan,
No.361, Anna Salai,
Teynampet,
Chennai - 18.

3.The Director of School Education,
College Road,
Chennai.

4.The Chief Educational Officer,
Tuticorin District,
Tuticorin.

5.The District Educational Officer,
Kovilpatti,
Tuticorin District.

...Respondents in
WP (MD) .No.24943 of 2018

Prayer in WP (MD) . 24943/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus to directing the respondents to take 50% of the part time service rendered by the petitioner i.e. from 17/08/1987 to 16/10/1992 which comes to 5 years , 1 month and 29 days, as per educational academic year has been counted to arrive along with the regular service for the pension benefits to the petitioner and provide consequential benefits to the petitioner within the time stipulated by this Court.

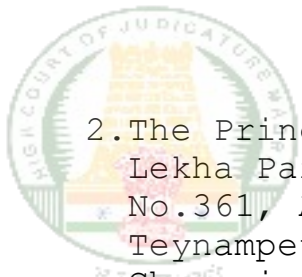
In W.P (MD) No.24944 of 2018:

L.Gurumoorthi

...Petitioner in
WP (MD) No.24944 of 2018

vs

1.The State of Tamilnadu,
Rep.By its Principal Secretary,
School Education Department,
Fort.St.George,
Chennai.



2.The Principal Accountant General (G&SSA),
Lekha Pariksha Bhavan,
No.361, Anna Salai,
Teynampet,
Chennai - 18.

3.The Director of School Education,
College Road,
Chennai.

4.The Chief Educational Officer,
Tuticorin District,
Tuticorin.

5.The District Educational Officer,
Kovilpatti,
Tuticorin District.

...Respondents
in WP (MD) No.24944 of 2018

Prayer in WP (MD) . 24944 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus to directing the respondents to take 50% of the part time service rendered by the petitioner i.e. from 13/08/1984 to 31/03/1990 which comes to 5 years , 7 months, as per educational academic year notionally 6 years has been counted to arrive along with the regular service for the pension benefits to the petitioner and provide consequential benefits to the petitioner within the time stipulated by this Court.

In W.P (MD) No.24945 of 2018:

D.Selvarajan

...Petitioner in
WP (MD) No.24945 of 2018

vs

1.The State of Tamilnadu,
Rep.By its Principal Secretary,
School Education Department,
Fort.St.George,
Chennai.

2.The Principal Accountant General (G&SSA),
Lekha Pariksha Bhavan,
No.361, Anna Salai,
Teynampet,
Chennai - 18.



3.The Director of School Education,
College Road,
Chennai.

4.The Chief Educational Officer,
Theni District,
Theni.

5.The District Educational Officer,
Theni,
Theni District.

...Respondents in
WP (MD) .No.24945 of 2018

Prayer in WP(MD) . 24945 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus to directing the respondents to take 50% of the part time service rendered by the petitioner i.e. from 01/07/1986 to 15/10/1992 which comes to 6 years , 3 months and 14 days, as per educational academic year has been counted to arrive along with the regular service for the pension benefits and provide consequential benefits to the petitioner within the time stipulated by this Court.

IN WP (MD) .No.24946 of 2018

1.R.Lakshmanaraj

...Petitioner in
WP (MD) .No.24946 of 2018

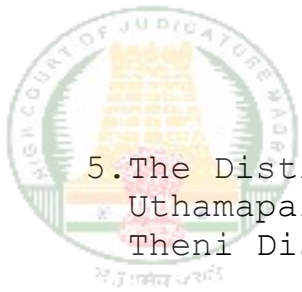
vs

1.The State of Tamilnadu,
Rep.By its Principal Secretary,
School Education Department,
Fort.St.George,
Chennai.

2.The Principal Accountant General (G&SSA) ,
Lekha Pariksha Bhavan,
No.361, Anna Salai,
Teynampet,
Chennai - 18.

3.The Director of School Education,
College Road,
Chennai.

4.The Chief Educational Officer,
Theni District,Theni.



5.The District Educational Officer,
Uthamapalayam,
Theni District.

....Respondents in
WP (MD) .No.24946 of 2018

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Prayer in WP (MD) .No.24946 of 2018

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus to directing the respondents to take 50% of the part time service rendered by the petitioner i.e. from 27/09/1980 to 11/11/1997 which comes to 17 years , 1 month and 15 days, as per educational academic year has been counted to arrive along with the regular service for the pension benefits to the petitioner and provide consequential benefits to the petitioner within the time stipulated by this Court.

IN WP (MD) .No.24947 of 2018

J.Lakshmanan

...Petitioner in
WP (MD) .No.24947 of 2018

vs

- 1.The State of Tamilnadu,
Rep.By its Principal Secretary,
School Education Department,
Fort.St.George,
Chennai.
- 2.The Principal Accountant General (G&SSA) ,
Lekha Pariksha Bhavan,
No.361, Anna Salai,
Teynampet,
Chennai - 18.
- 3.The Director of School Education,
College Road,
Chennai.
- 4.The Chief Educational Officer,
Theni District,
Theni.
- 5.The District Educational Officer,
Uthamapalayam,
Theni District.

...Respondents in
WP (MD) .No.24947 of 2018



Prayer in WP(MD) . 24947 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus to directing the respondents to take 50% of the part time service rendered by the petitioner i.e. from 07/08/1992 to 09/06/2002 which comes to 9 years , 10 months and 2 days, as per educational academic year notionally 10 years has been counted to arrive along with the regular service for the pension benefits and provide consequential benefits to the petitioner within the time stipulated by this Court.

IN WP(MD) .No.19570 of 2018

G.Chelladurai

...Petitioner in
WP (MD)No.19570 of 2018

vs

- 1.The State of Tamilnadu,
Rep.By its Principal Secretary,
Finance(CMPC) Department,
Fort.St.George,
Chennai.
- 2.The Principal Accountant General(G&SSA) ,
Lekha Pariksha Bhavan,
No.361, Anna Salai,
Teynampet,
Chennai - 18.
- 3.The Director of School Education,
College Road,
Chennai.
- 4.The Chief Educational Officer,
Theni District,
Theni.
- 5.The District Educational Officer,
Periyakulam,
Theni District.

...Respondents in
WP (MD) .No.19570 of 2018

Prayer in WP(MD) . 19570 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents to take 50% of the part time service rendered by petitioners wife ie. from 01.08.1979 to



31.03.1990 which comes to 10 years, 7 months, as per educational academic year notionally 11 years, has been counted to arrive along with the regular service for the pension benefits and provide consequential benefits to the petitioner within the time stipulated by this Court.

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In WP (MD) . 19571 of 2018

M.Thiraviyam

... Petitioner in
WP (MD) .No.19571 of 2018

vs

1.The State of Tamilnadu,
Rep.By its Principal Secretary,
Finance (CMPC) Department,
Fort.St.George,
Chennai.

2.The Principal Accountant General (G&SSA),
Lekha Pariksha Bhavan,
No.361, Anna Salai,
Teynampet,
Chennai - 18.

3.The Director of School Education,
College Road,
Chennai.

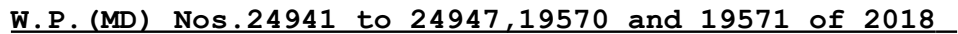
4.The Chief Educational Officer,
Madurai District,
Madurai.

5.The District Educational Officer,
Usilampatti,
Madurai District.

...Respondents in
WP (MD) .No.19571 of 2018

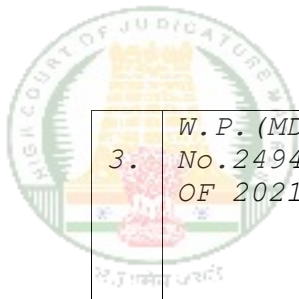
Prayer in WP (MD) . 19571 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents to take 50% of the part time service rendered by the petitioners ie. from 02/01/1984 to 31/03/1990 which comes to 6 years, 3 months, as per academic year has been counted to arrive along with the regular service for the pension benefits and provide consequential benefits to the petitioner within the time stipulated by this Court.



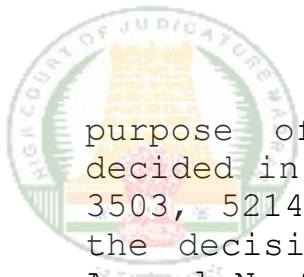
For Petitioner	:	Mr.R.Venkatesan
For R1,R3 to R5	:	Mr.A.K.Manikkam
		Special Government Pleader
For R2	:	Mr.P.Gunasekaran

For Petitioner	:	Mr.R.Venkatesan
For R1,R3 to R5	:	Mr.K.S.Selvaganesan
		Additional Government Pleader
For R2	:	Mr.P.Gunasekaran



3.	W.P. (MD) No.24941 OF 2021	G.Vasimalai	02.08.1988	16.10.1992	from 02.08.1988 to 15.10.1992	4 years, 2 months and 13 days, as per educational academic year
4.	W.P. (MD) No.24942 OF 2021	K.Krishna Moorthy	07.06.1989	05.10.1996	from 07.06.1989 to 05.10.1996	7 years, 3 months and 28 days, as per educational academic year
5.	W.P. (MD) No.24943 OF 2021	G.Narayanasam y	17.08.1987	16.10.1992	from 17.08.1987 to 16.10.1992	5 years, 1 month and 29 days, as per educational academic year
6.	W.P. (MD) No.24944 OF 2021	L.Gurumoorthi	13.08.1984	01.04.1990	from 13.08.1984 to 31.03.1990	5 years, 7 months (as per educational academic year notionally 6 years)
7.	W.P. (MD) No.24945 OF 2021	D.Selvarajan	01.07.1986	16.10.1992	from 01.07.1986 to 15.10.1992	6 years, 3 months and 14 days, as per educational academic year
8.	W.P. (MD) No.24946 OF 2021	R.Lakshmanara j	27.09.1980	12.11.1997	From 27.09.1980 to 11.11.1997	17 years, 1 month and 15 days, as per educational academic year
9	W.P. (MD) No.24947 OF 2021	J.Lakshmanan	07.08.1992	10.06.2002	from 07.08.1992 to 09.06.2002	9 years, 10 months and 2 days, as per educational academic year notionally 10 years

3. The very question as before me now, that is, whether 50% of the services rendered by the employees as single part time or double time Vocational Instructors could be reckoned for the



purpose of pensionary and other retiral benefits came to be decided in a batch of matters in. W.P.Nos.5830, 5832, 25236, 3264, 3503, 5214 & 23545 of 2014. The writ petitions were allowed and the decision of the learned single Judge was challenged in Writ Appeal No.882 of 2018 and batch.

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4. By order dated 06.04.2018, the Division Bench, while disposing the Writ Appeals held as follows:

15. In terms of the above discussions, we dispose of the writ appeals as under:

(i) 50% of the services rendered by the respondents herein, as Part Time Vocational Instructor (either as Single Part time or Double Part Time Vocational Instructor), shall be counted for the purpose of computing pension and other retiral benefits.

(ii) The above said benefit shall be extended only to the respondents in these writ appeals and for the persons similarly situated like that of the respondents herein, whose cases are pending before this Court. Thus it is made clear that the above said benefit shall not be extended to any other future cases that may be filed on this account, on the ground of delay and laches, since all along they have not come up before this Court and remained as fence-sitters. It is also needless to point out that allowing such cases would amount to opening the pandora's box, touching upon the financial implications of the State.

5. Thus, while granting the relief as sought for, the Bench fixed a cut-off date, being the date of that order by way of a restriction for advancing such claim. The restriction was evidently placed in order to protect against belated claims by those who had remained as passive onlookers without proactively agitating the matter and obtaining timely relief for themselves.

6. The same issue came up for consideration in a batch of matters before a learned Single Judge of this Court, who while disposing the writ petitions on 09.07.2018, extensively dealt with the decision rendered by the Bench including the issue of whether the decision in writ appeal was one passed in personam or in rem.

7. The learned Single Judge concluded that decision dated 06.04.2018 was one passed in rem and that the benefits granted thereunder must be extended to similarly placed employees as well. It has specifically to be noted that the Writ Petitions disposed by the learned Single Judge were of the year 2014, 2017 and 2018, some of the writ petitions having been filed subsequent to the cut-off date, being 06.04.2018.



8. In W.P.(MD) No.15904 of 2018, writ petitioner had approached the Court three (3) months after the cut-off date. The Division Bench, in an appeal by the State in Writ Appeal in W.A (MD)No.517 of 2020 notes that Writ Petition had been filed belatedly with a delay of 3 months but condones the delay, by order dated 13.08.2020 though with a caveat that while similarly placed employees would be entitled to retiral/terminal benefits, they would not be entitled to interest in regard to the same. The decision of the Bench dated 06.04.2018 was thus somewhat modified by the subsequent Bench.

9. In fine, the Writ Appeal filed by the State was dismissed and the official respondent directed to comply with order dated 09.07.2018 within a period of 10 weeks from date of receipt of a copy of that order. Order dated 13.08.2020 has become final.

10. Thus, and to clarify, (i) persons similarly placed to those who were parties W.A.No.882 of 2018 and batch would also be entitled to retiral/terminal benefits and (ii) in cases of those who approach the court after 06.04.2018, however within a reasonable time, while their entitlement to the benefits continues, they would not be entitled to interest.

11. It is in light of the aforesaid pronouncements that the question of delay in approaching this Court is liable to be examined. The petitioner in W.P(MD)No.19570 of 2018, had filed the Writ Petition on 06.09.2018 with a delay of five (5) months from the cut-off date. As far as the second batch of writ petitions are concerned, the date of filing of Writ Petitions is 17.12.2018, with a delay of eight (8) months.

12. That apart, W.P(MD).Nos.19570 of 2018 has been filed by the spouse of the deceased employees. A similar situation came to be considered under order dated 09.07.2018 wherein a claim was made for retiral benefits by the spouse of the deceased employee that came to be accepted and allowed. In the interests of uniformity, the same view is taken to be passed in the present matter as well.

13. In line with the discussion as above, the claims of the petitioners in all writ petitions are liable to be accepted. The official respondents will compute the benefits to be paid over and remit the same to them within a period of ten (10) weeks from the date of uploading of this order in the official website of this Court.



14. In fine, these Writ Petitions are allowed. No costs.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar (CS)

CM

To

1.The Principal Secretary to Government,
School Education Department,
Fort St. George, Chennai.

2.The Principal Accountant General (G & SSA),
'Lekha Pariksha Bhavan'
No.361, Anna Salai, Teynampet, Chennai - 600 018.

3.The Director of School Education,
College Road, Chennai.

4.The Chief Educational Officer,
Theni District, Theni.

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Uthamapalayam, Theni District.

6.The Chief Educational Officer,
Tuticorin District, Tuticorin.

7.The District Educational Officer,
Kovilpatti, Tuticorin District.

8.The District Educational Officer,
Theni, Theni District.

9.The District Educational Officer,
Periyakulam, Theni District.

10.The Chief Educational Officer,
Madurai District, Madurai.

11.The District Educational Officer,
Madurai District, Madurai.



W.P. (MD) Nos.24941 to 24947,19570 and 19571 of 2018

12.The Principal Secretary to Government,
Finance (CMPC) Department, Fort st.George,
Chennai.

+1 CC to M/s.SPL GP (SR-34574[F] dated 16/11/2021)

+7 CC to M/s.R. VENKATESAN, Advocate (SR-34667[F] dated
16/11/2021)

W.P. (MD) Nos.24941 to 24947 of 2018
and

W.P (MD) Nos.19570 and 19571 of 2018
15.11.2021

RK(23/12/2021) 14P 21C