



WEB COPY



W.P.No.31676 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.31676 of 2018

S.Xavier Raj

... Petitioner

Vs

1.The Government of Tamil Nadu,
Rep. By its Secretary to Government,
School Education Department,
Fort St. George, Chennai – 600 009.

2.The Director of School Education,
DPI Complex, College Road,
Chennai – 600 006.

3.The Joint Director of School
Education (Vocational)
DPI Complex, College Road,
Chennai – 600 006.

4.The Chief Educational Officer,
O/o.the Chief Educational Officer,
Cuddalore – 607 001.

5.The District Educational Officer,
O/o. The District Educational Officer,
Vadalore – 607 303.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Mandamus directing the respondents to



W.P.No.31676 of 2018

calculate the 50% of service rendered by the petitioner as Double Part-Time Vocational Instructor along with the regular service for Calculation of pension as per the G.O.Ms.No.408 dated 25.08.2009 and based on the judgment in W.P.No.30671 and 30672 of 2013 dated 14.11.2013, W.P.No.3259 of 2014 dated 04.02.2014 and W.A.Nos.882 of 2017 etc. batch dated 06.04.2018.

For Petitioner : Mr.R.Pandian

For Respondent : Mr.U.M.Ravichandran
Special Government Pleader

ORDER

The prayer sought for herein is for a writ of mandamus directing the respondents to calculate the 50% of service rendered by the petitioner as Double Part-Time Vocational Instructor along with the regular service for Calculation of pension as per the G.O.Ms.No.408 dated 25.08.2009 and based on the judgment in W.P.No.30671 and 30672 of 2013 dated 14.11.2013, W.P.No.3259 of 2014 dated 04.02.2014 and W.A.Nos.882 of 2017 etc. batch dated 06.04.2018.

2. The petitioner was having the educational qualification of Diploma in Electrical Engineering. As per the qualification announced for the post of Single/Double Part-time Vocational Instructor, which is



W.P.No.31676 of 2018

Diploma in Electrical Engineering with 3 years experience. Considering his past experience and educational qualification, he had been posted as Double Part-time Vocational Instructor on 12.09.1988 at N.L.C. Higher Secondary School, Mandarakuppam, Neyveli – 2. Then his service was regularised with effect from 16.10.1992. He got Selection Grade on 16.10.2002 and after 10 years on 06.10.2012 he was placed in the Special Grade. His total service as Double Part-time Vocational Instructor is 4 years 1 month and 3 days. His total service is 24 years 7 months and 15 days which did not fulfill the requirements for full pensionary benefits. Therefore, in order to take up the 50% of his Double Part-time Vocational Instructor service for the purpose of pensionary benefits, he has made request based on the relevant Government Orders issued in this regard, however the same since has not been considered, he has approached this Court by filing this writ petition.

3. Heard Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents who would submit that, if at all any Double Part-time Vocational Instructor work was done by the petitioner prior to a particular cut off date and subsequently he has been regularised before the cut off date the 50% of the said service rendered by him as



W.P.No.31676 of 2018

Double Part-time Vocational Instructor can be taken into account.

WEB COPY

4. In this context, the petitioner service as Double Part-time Vocational Instructor if at all to be considered, that may be considered strictly in accordance with law already stated in this regard and not beyond that.

5. I have considered the said submissions made by the learned Special Government Pleader appearing for the respondents. In this regard, a Division Bench of this Court by order dated 02.04.2019 in W.A.No.1116 of 2019 has made the following observation.

“As rightly held by the learned Judge that when a party gets a right under a judgment, the said accrued right cannot be denied based upon an artificial classification. Further, this Court on the earlier occasions found that such a classification cannot be sustained in the eye of law. More so, to explain, at the cost of repetition, the very object of G.O. Ms. No. 408 dated 25.08.2009 is to give benefits to the employees, who were working earlier on consolidated pay as well as daily rated wages. Therefore, the 50% of the service rendered by the Respondent from 01.07.1972 till 01.10.1984 will have to be taken into account for calculation of pension. We are in total agreement with the findings rendered by the learned single Judge. Therefore, the interference sought to be made into the well considered and merited order passed by the learned single Judge is neither warranted nor called for.”



10. In the light of the clear findings in the earlier decisions of this Court referred supra and in the absence of any materials placed before this Court to the contrary, it is not possible to accept the self-serving claim of the Respondents that the services of the Rural Medical Officers like the Petitioner prior to 01.10.1984 were engaged on part time basis. We must also point out here that the Hon'ble Supreme Court of India in State of Uttar Pradesh -vs- Arvind Kumar Srivastava [(2015) 1 SCC 347] has reiterated that when a particular set of employees have been given relief by the Court, all other identically situated employees should be treated alike by extending that benefit and not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. In view of the aforesaid dictum, the Petitioner is entitled to the same benefit, which has been granted in respect of similarly placed persons in the decisions referred supra.

6. Thereafter also several such orders have been passed, where, as per the decision of this Court, if the Double Part-time Vocational Instructor rendered service prior to the regularisation 50% of such service can be taken into account for the pensionary benefits alone. In view of the said settled legal position, this Court feels that a direction can be given to



W.P.No.31676 of 2018

consider the request of the petitioner for treating the 50% of the Double Part-time Vocational Instructor period or service rendered by him for the purpose of his total pensionary service.

7. In the result, the following orders are passed in this writ petition:

That there shall be a direction to the respondents to consider the representation of the petitioner made in this regard dated 04.08.2018 and pass orders thereon on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

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

17.08.2022

Index : Yes/No

Speaking Order : Yes/No

Sgl
To

1. The Secretary to Government,
The Government of Tamil Nadu,
School Education Department,
Fort St. George, Chennai – 600 009.



W.P.No.31676 of 2018

WEB COPY

- 2.The Director of School Education,
DPI Complex, College Road,
Chennai – 600 006.
- 3.The Joint Director of School
Education (Vocational)
DPI Complex, College Road,
Chennai – 600 006.
- 4.The Chief Educational Officer,
O/o.the Chief Educational Officer,
Cuddalore – 607 001.
- 5.The District Educational Officer,
O/o. The District Educational Officer,
Vadalore – 607 303.



WEB COPY



W.P.No.31676 of 2018

R. SURESH KUMAR, J.

Sgl

W.P.No.31676 of 2018

17.08.2022