



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2022

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.645 of 2022

P.Varghese

... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai-9

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

3.The Chief Educational Officer,
Nagercoil,
Kanyakumari District

4.The District Educational Officer,
Kuzithurai,
Kanyakumari District.

5.The Head Master,
Government Higher Secondary School,
Arumanai,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to sanction and disburse the eligible pension by calculating 50% of service rendered by the petitioner as part time Vocational Instructor from 13.10.1980 to 31.03.1990 along with regular pension service as per G.O.Ms.No.194, School Education(PA-1) Department dated 12.09.2018 by considering the proposal submitted by the 5th respondent dated .06.2019 and the representation of the petitioner dated 17.06.2019 and disburse the pensionary benefits in accordance with the same within a stipulated time as fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh
For Respondents : Mr.S.Saji Bino, Spl GP.

ORDER

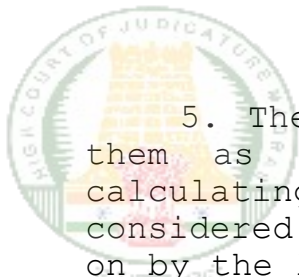
Heard Mr.S.C.Herold Singh, learned counsel appearing for the petitioner and Mr.S.Saji Bino learned Special Government Pleader appearing for the respondents.



2.This Writ Petition has been filed seeking for issuance of Writ of Mandamus, to direct the respondents to sanction and disburse the eligible pension by calculating 50% of service rendered by the petitioner as part time Vocational Instructor from 13.10.1980 to 31.03.1990 along with regular pension service as per G.O.Ms.No.194, School Education(PA-1) Department dated 12.09.2018 by considering the proposal submitted by the 5th respondent dated .06.2019 and the representation of the petitioner dated 17.06.2019 and disburse the pensionary benefits in accordance with the same within a stipulated time as fixed by this Court.

3.The petitioner was appointed as Part Time Vocational Instructor on 13.10.1980 in the fifth respondent school. He had worked as Part Time Vocational Instructor from 13.10.1980 to 31.03.1990. Even though he was appointed as Part Time Vocational Instructor, he was discharging his work only as full time instructor. Considering the work load of the petitioner, the third respondent, by his proceedings in Na.Ka.No.3143/E4/91, dated 21.03.1991, observed his services as full time Vocational Instructor with effect from 01.04.1990. According to petitioner, the respondents regularized his services as Full Time Vocational Instructor with effect from 01.04.1990 instead of from his initial date of appointment, that is from 13.10.1980. He was not given the benefits for the period from 13.10.1980 to 31.03.1990. After rendering 9 years 5 months of service as Part Time employee and 25 years 9 months of service as full time Vocational Instructor, totally 36 years 2 months, he retired from service on 31.01.2016. The first respondent fixed the qualifying service for eligible pension only from 31.03.1990 to 31.01.2016 and the service rendered by him from 13.10.1980 to 31.03.1990 was not considered. Similarly placed persons like that of the petitioner, approached this Court and batch of writ petitions were filed.

4.This Court considering the grievance of the similarly placed persons, directed the authorities to calculate 50% services of the Part Time Vocational Instructor for the purpose of calculating pension. In pursuant to the order of this Court, the respondents implemented the same. Since several writ petitions were filed, the first respondent issued a Government Order in G.O.Ms.No.194, School Education (SE7-1) Department, dated 12.09.2018, in and by which, the first respondent ordered to calculate 50% of services rendered by the similarly placed persons, like that of the persons, who approached this Court, would be counted for the purpose of disbursing pension. The petitioner has sent a representation to the respondents to extend the benefits of G.O.Ms.No.194, dated 12.09.2018 to him. Despite the receipt of his representation, the respondents have not taken any effective steps sofar, and hence, the petitioner has come out with the present writ petition.



5. The petitioner is seeking 50% of their service rendered by them as part time Vocational Instructors to be counted for calculating pension payable to them. This issue was already considered by this Court in W.P.No.14365 of 2014 etc., batch, relied on by the learned counsel for the petitioner. This Court has granted relief to the similarly placed persons, like that of the petitioner herein. The appeal and Special Leave Petition filed by the Government were dismissed. This Court, by the order dated 09.07.2018, after extracting the earlier order of this Court in paragraphs 44 and 45, has held as follows:-

"44. In view of the aforesaid judgments, wherein the issue as has been put forth by the learned counsel for the petitioners, having been dealt with and decided more than once by the Writ Court and the same has been confirmed by the Division Bench of this Court more than once and in cases, where SLP preferred before the Hon'ble Supreme Court, wherein also the view taken by this Court has been confirmed, all these petitioners are entitled to, for calculating 50% of the past services, rendered by each of the petitioners in the respective employment before they got absorbed by bringing them under the time scale of pay irrespective of the years of service, for the purpose of pensionary benefits. Hence, these petitioners also shall be entitled to get the same benefits and accordingly, all these writ petitions are fit to succeed."

6. In the result, this Writ Petition is allowed and the respondents are hereby directed to take into account the 50% of the past services rendered by the petitioner either as Vocational Instructors or any other employment either as a Part Time /Full time / adhoc / temporary / daily wages employees before he was brought in under the regular time scale of pay on permanent basis or absorption and by calculating the said 50% of the past service, pension eligibility and pension enhancement or difference of pay and pension shall be calculated and disbursed in favour of the petitioner. After fixing the revised pension by taking into account the past 50% services, the revised pension arrears shall be calculated and disbursed to the petitioner within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(P & A)

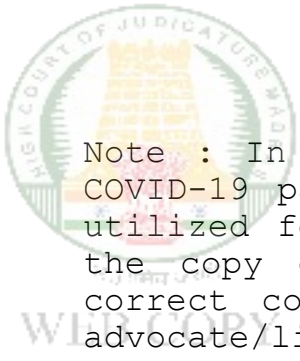
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Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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3.The Chief Educational Officer,
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5.The Head Master,
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+1 CC to M/s.S.C.HEROLDSINGH, Advocate (SR-1805[F] dated 20/01/2022)

+1 CC to M/s.SPL.GP (SR-2023[F] dated 21/01/2022)

**W . P (MD) No . 645 of 2022
19.01.2022**

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