



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) Nos.11632 to 11646 of 2021

and

W.M.P(MD).Nos.9148, 9150, 9155, 9151, 9152, 9153, 9154, 9157, 9159,
9162, 9163, 9156, 9158, 9160, 9161 and 9164 of 2021

Chithambaram.S	... Petitioner in WP(MD). 11632/ 2021
Kodiyarasan.S	... Petitioner in WP(MD). 11633/ 2021
Rani. N	... Petitioner in WP(MD). 11634/ 2021
M.Srinivasan	... Petitioner in WP(MD). 11635/ 2021
Nedunchezhiyan.R	... Petitioner in WP(MD). 11636/ 2021
Thenmozhi.S	... Petitioner in WP(MD). 11637/ 2021
K. Sivakumar	... Petitioner in WP(MD). 11638/ 2021
Gomathi. S	... Petitioner in WP(MD). 11639/ 2021
Sukumar. A	... Petitioner in WP(MD). 11640/ 2021
Arumugam. P	... Petitioner in WP(MD). 11641/ 2021
Srimathi Santhi.P	... Petitioner in WP(MD). 11642/ 2021
Niraimathi.K	... Petitioner in WP(MD). 11643/ 2021
Poongulali.S	... Petitioner in WP(MD). 11644/ 2021
Santhi.J	... Petitioner in WP(MD). 11645/ 2021
Anbazzhagan.D	... Petitioner in WP(MD). 11646/ 2021

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

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

3. The Chief Educational Officer,
Pudukkottai, Pudukkottai District.

... Respondent 1 to 3 in WP(MD). 11632/ 2021 to 11639
and 11642 to 11646/2021

... Respondent 1 and 2 in WP(MD). 11640/ 2021
and 11641/ 2021

3. The Accountant General (Accounts and Entitlements),
Accountant General Department, Chennai 600 018.

...3rd Respondent in WP(MD). 11640/ 2021
and 11641/2021

4. The District Educational Officer, Aranthani, Pudukkottai
District.

... 4th Respondent in WP(MD). 11640/ 2021



4. The Chief Educational Officer Erode, Erode District 01
... 4th Respondent in WP(MD). 11641/ 2021

Prayer in WP(MD). 11632 /2021 and 11633/2021 :

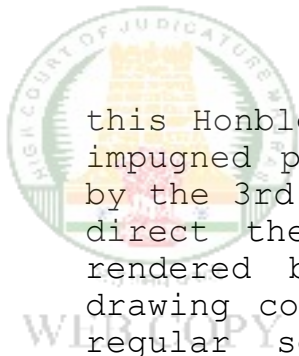
Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to calling for the records relating to the impugned G.O.Ms.no.194, School Education (Paka 7-1) Department, dated 12.9.2018 issued by the 1st respondent herein so far as clause (5) restricting the benefit to the persons who approached this Honble Court on or before 6.4.2018 alone and the consequential impugned proceedings in Mu.Mu.no. 10273/A3/2019, 17.11.2020 issued by the 3rd respondent and quash the same as illegal and consequently direct the respondents herein to take 50 percentage of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 20.9.1996 to 9.6.2002 along with regular service from 10.6.2002 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules and the sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 26/07/2019 within the time limit fixed by this court.

Prayer in WP(MD). 11634/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to calling for the records relating to the impugned G.O.Ms.no.194, School Education (Paka 7-1) Dept, dt 12.9.2018 issued by the 1st respondent herein so far as clause (5) restricting the benefit to the persons who approached this Honble Court on or before 6.4.2018 alone and the consequential impugned proceedings in Mu.Mu.no. 10273/A3/2019, 17.11.2020 issued by the 3rd respondent and quash the same as illegal and consequently direct the respondents herein to take 50 percentage of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 2.9.1988 to 15.10.1992 along with regular service from 16.10.1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules and the sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 26/07/2019 within the time limit fixed by this court.

Prayer in WP(MD). 11635/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to calling for the records relating to the relating to the impugned G.O.Ms.no.194, School Education (Paka 7-1) Dept, dt 12.9.2018 issued by the 1st respondent herein so far as clause (5) restricting the benefit to the persons who approached



this Honble Court on or before 6.4.2018 alone and the consequential impugned proceedings in Mu.Mu.no. 10273/A3/2019, 17.11.2020 issued by the 3rd respondent and quash the same as illegal and consequently direct the respondents herein to take 50 percentage of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 23.8.1982 to 31.3.1990 along with regular service from 1.4.1990 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules and the sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 26/07/2019 within the time limit fixed by this court.

Prayer in WP(MD). 11636/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to calling for the records relating to the relating to the impugned G.O.Ms.no.194, School Education (Paka 7-1) Dept, dt 12.9.2018 issued by the 1st respondent herein so far as clause (5) restricting the benefit to the persons who approached this Honble Court on or before 6.4.2018 alone and the consequential impugned proceedings in Mu.Mu.no. 10273/A3/2019, 17.11.2020 issued by the 3rd respondent and quash the same as illegal and consequently direct the respondents herein to take 50 percentage of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 5.8.1986 to 15.10.1992 along with regular service from 16.10.1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules and the sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 26/07/2019 within the time limit fixed by this court.

Prayer in WP(MD). 11637/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to calling for the records relating to the relating to the impugned G.O.Ms.no.194, School Education (Paka 7-1) Dept, dt 12.9.2018 issued by the 1st respondent herein so far as clause (5) restricting the benefit to the persons who approached this Honble Court on or before 6.4.2018 alone and the consequential impugned proceedings in Mu.Mu.no. 10273/A3/2019, 17.11.2020 issued by the 3rd respondent and quash the same as illegal and consequently direct the respondents herein to take 50 percentage of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 28.8.1986 to 15.10.1992 along with regular service from 16.10.1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules and the sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 26/07/2019 within the time limit



fixed by this court.

Prayer in WP(MD). 11638/ 2021 :

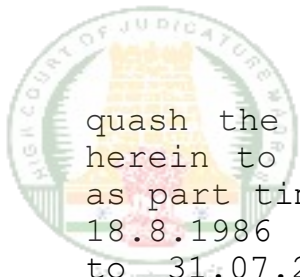
Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to calling for the records relating to the relating to the impugned G.O.Ms.no.194, School Education (Paka 7-1) Dept, dt 12.9.2018 issued by the 1st respondent herein so far as clause (5) restricting the benefit to the persons who approached this Honble Court on or before 6.4.2018 alone and the consequential impugned proceedings in Mu.Mu.no. 10273/A3/2019, 17.11.2020 issued by the 3rd respondent and quash the same as illegal and consequently direct the respondents herein to take 50 percentage of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 23.9.1988 to 15.10.1992 along with regular service from 16.10.1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules and the sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 26/07/2019 within the time limit fixed by this court.

Prayer in WP(MD). 11639/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to calling for the records relating to the relating to the impugned G.O.Ms.no.194, School Education (Paka 7-1) Dept, dt 12.9.2018 issued by the 1st respondent herein so far as clause (5) restricting the benefit to the persons who approached this Honble Court on or before 6.4.2018 alone and the consequential impugned proceedings in Mu.Mu.no. 10273/A3/2019, 17.11.2020 issued by the 3rd respondent and quash the same as illegal and consequently direct the respondents herein to take 50 percentage of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 14.2.1986 to 19.1.1995 along with regular service from 20.1.1995 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules and the sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 26/07/2019 within the time limit fixed by this court.

Prayer in WP(MD). 11640/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to calling for the records relating to the relating to the impugned G.O.Ms.no.194, School Education (Paka 7-1) Dept, dt 12.9.2018 issued by the 1st respondent herein so far as clause (5) restricting the benefit to the persons who approached this Honble Court on or before 6.4.2018 alone and the consequential impugned proceedings in Mu.Mu.no. 10273/A3/2019, 17.11.2020 issued by the 3rd respondent and quash the same as illegal and consequently direct the respondents herein to take 50 percentage of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 14.2.1986 to 19.1.1995 along with regular service from 20.1.1995 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules and the sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 26/07/2019 within the time limit fixed by this court.



quash the same as illegal and consequently direct the respondents herein to take 50 percentage of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 18.8.1986 to 15.10.1992 along with regular service from 16.10.1992 to 31.07.2018 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules and the sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 26/07/2019 within the time limit fixed by this court.

Prayer in WP(MD). 11641/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to calling for the records relating to the relating to the impugned G.O.Ms.no.194, School Education (Paka 7-1) Dept, dt 12.9.2018 issued by the 1st respondent herein so far as clause (5) restricting the benefit to the persons who approached this Honble Court on or before 6.4.2018 alone and the consequential impugned proceedings in Na.Ka.no.1630/A1/2020, .08.2020 issued by the 4th respondent and quash the same as illegal and consequently direct the respondents herein to take 50 percentage of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 3.1.1979 to 31.3.1990 along with regular service from 1.4.1990 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules and the sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 26/07/2019 within the time limit fixed by this court.

Prayer in WP(MD). 11642/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to calling for the records relating to the relating to the impugned G.O.Ms.no.194, School Education (Paka 7-1) Dept, dt 12.9.2018 issued by the 1st respondent herein so far as clause (5) restricting the benefit to the persons who approached this Honble Court on or before 6.4.2018 alone and the consequential impugned proceedings in Mu.Mu.no. 10273/A3/2019, 17.11.2020 issued by the 3rd respondent and quash the same as illegal and consequently direct the respondents herein to take 50 percentage of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 05.03.1986 to 15.10.1992 along with regular service from 16.10.1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules and the sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 26/07/2019 within the time limit fixed by this court.

Prayer in WP(MD). 11643/ 2021 :

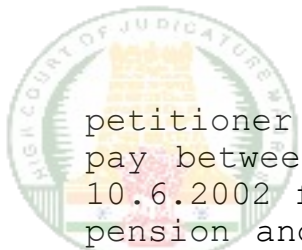
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Prayer in WP(MD). 11644/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to calling for the records relating to the relating to the impugned G.O.Ms.no.194, School Education (Paka 7-1) Dept, dt 12.9.2018 issued by the 1st respondent herein so far as clause (5) restricting the benefit to the persons who approached this Honble Court on or before 6.4.2018 alone and the consequential impugned proceedings in Mu.Mu.no. 10273/A3/2019, 17.11.2020 issued by the 3rd respondent and quash the same as illegal and consequently direct the respondents herein to take 50 percentage of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 20.9.1996 to 9.6.2002 along with regular service from 10.6.2002 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules and the sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 26/07/2019 within the time limit fixed by this court.

Prayer in WP(MD). 11645/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to calling for the records relating to the relating to the impugned G.O.Ms.no.194, School Education (Paka 7-1) Dept, dt 12.9.2018 issued by the 1st respondent herein so far as clause (5) restricting the benefit to the persons who approached this Honble Court on or before 6.4.2018 alone and the consequential impugned proceedings in Mu.Mu.no. 10273/A3/2019, 17.11.2020 issued by the 3rd respondent and quash the same as illegal and consequently direct the respondents herein to take 50 percentage of service rendered by the



petitioner as part time vocational instructors drawing consolidated pay between 20.9.1996 to 9.6.2002 along with regular service from 10.6.2002 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules and the sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 26/07/2019 within the time limit fixed by this court.

Prayer in WP(MD). 11646/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to calling for the records relating to the relating to the impugned G.O.Ms.no.194, School Education (Paka 7-1) Dept, dt 12.9.2018 issued by the 1st respondent herein so far as clause (5) restricting the benefit to the persons who approached this Honble Court on or before 6.4.2018 alone and the consequential impugned proceedings in Mu.Mu.no. 10273/A3/2019, 17.11.2020 issued by the 3rd respondent and quash the same as illegal and consequently direct the respondents herein to take 50 percentage of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 05.08.1986 to 15.10.1992 along with regular service from 16.10.1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules and the sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 26/07/2019 within the time limit fixed by this court.

In all Petitions

For Petitioner : Mr.S.Manikandan

For Respondents: Mr.G.V.Vairom Santhosh
Additional Government Pleader

C O M M O N O R D E R

The order of rejection rejecting the claim of the writ petitioners to count 50% of part time services for counting of qualifying service is under challenge in the present Writ Petitions.

2. Admittedly, the petitioners joined as part time Vocational Teachers in the Government Higher Secondary School. Subsequently, their services were regularised in sanctioned post in time scale of pay.

3. The grievance of the petitioners is that part time services rendered by them have not been taken into consideration for the purpose of counting the qualifying service for grant of pension and other benefits. In this regard, the amended Rule 11(4) of the Tamil Nadu Pension Rules would be relevant which reads as under:-



(4) Half of the service rendered under the State Government in non-provincialised service, consolidated pay, honorarium or daily wages basis on or after 1st January 1961 in respect of Government -employees absorbed in regular service before 1st April 2003 shall be counted for retirement benefits along with regular service, subject to the following conditions, namely:-

(i) Service rendered in non-provincialised service, consolidated pay, honorarium or daily wages basis shall be in a job involving whole time employment;

(ii) Service rendered shall be on consolidated pay, honorarium or daily wages basis paid on monthly basis and subsequently absorbed in regular service under the State Government;

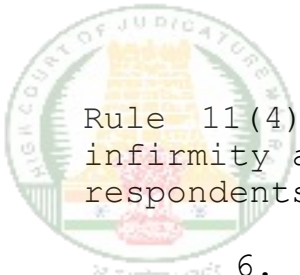
(iii) Service rendered in non-provincialised service, consolidated pay, honorarium or daily wages basis shall be followed by absorption in regular service before 1st April 2003 without a break.

Provided that this sub-rule is applicable to all employees who rendered service under the State Government in non-provincialised service, consolidated pay, honorarium or daily wages basis on or after 1st January 1961 and absorbed in regular service before 1st April 2003.

Provided further that wherever there was break in service before their absorption in regular service before 1st April 2003, the same shall be specifically condoned by the orders of the Head of Departments, in which the employees were regularly absorbed and such period of break, shall not count for the purpose of pensionary benefits.]

4. The Rule stated supra is unambiguous that "half of the service rendered under the State Government in non-provincialised service, consolidated pay, honorarium or daily wages basis on or after 1st January 1961 in respect of Government -employees absorbed in regular service before 1st April 2003 shall be counted for retirement benefits". However, it is made clear in sub-clause (i) to Rule 4 that "the service rendered in non-provincialised service, consolidated pay, honorarium or daily wages basis shall be in a job involving whole time employment". Therefore, the amended Rule is unambiguous that 50% of the services shall be counted, if the nature of the employment is full time.

5. In the present case, the petitioners admittedly were working as part time Vocational Teachers and therefore, they are not entitled for the benefit of counting of 50% service of part time Vocational Teacher in accordance with Rule 11(4) of the Tamil Nadu Pension Rules. The Hon'ble Full Bench of this Court in the case of **Government of Tamil Nadu Vs. R.Kaliyamoorthy reported in 2019 (6) CTC 705** has also reiterated the said principles with reference to



Rule 11(4) of the Tamil Nadu Pension Rules. Thus, there is no infirmity as such in respect of the order of rejection passed by the respondents.

6. Accordingly, the Writ Petitions stand dismissed. . However, there shall be no order as to costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb

To

- 1.The Secretary to Government,
School Education Department,
Secretariat, Chennai-9.
- 2.The Director of School Education,
D.P.I Campus, College Road, Chennai.
- 3.The Chief Educational Officer,
Pudukottai, Pudukottai District.
4. The District Educational Officer,
Aranthani, Pudukkottai District.
5. The Chief Educational Officer
Erode, Erode District 01

copy to

The Accountant General (Accounts and Entitlements),
Accountant General Department, Chennai 600 018.

+1 CC to M/s.SPL.GP (SR-16737[F] dated 05/04/2022)

W.P.(MD) No.11632 of 2021 etc.,
04.04.2022

na(CO)

TR(19.04.2022) 9P 8C