



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.01.2022**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P. (MD)No.22984 of 2018

WEB COPY

A.R.G.Mohan

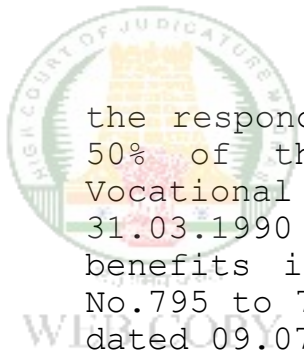
...Petitioner

/Vs./

- 1.The State of Tamil Nadu,
Rep.by its Principal Secretary to the Government,
Department of School Education,
Fort St.George,
Chennai-9.
 - 2.The Director of School Education,
O/o.The Director of School Education,
DPI Campus, College Road,
Chennai-6.
 - 3.The Joint Director of School Education (Vocational),
O/o.The Joint Director of School Education (Vocational),
DPI Campus, College Road,
Chennai-6.
 - 4.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Tuticorin,
Tuticorin District.
 - 5.The Principal Accountant General (A&E),
O/o.the Principal Accountant General (A&E),
361, Anna Salai,
Chennai-600 018.
 - 6.The District Educational Officer,
O/o.the District Educational Officer,
Tuticorin,
Tuticorin District.
 - 7.The Correspondent,
SAV Higher Secondary School,
Tuticorin-628 002,
Tuticorin District.
- ...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing

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the respondents to refix the petitioner's pension by including the 50% of the service rendered by the petitioner as Part Time Vocational Instructor in consolidated pay from 10.10.1979 to 31.03.1990 along with regular service with all other consequential benefits in the light of the judgment of this Court in W.P.(MD). No.795 to 797 of 2018 dated 12.02.2018 and W.P.(MD).No.14365 of 2018 dated 09.07.2018.

For Petitioner : Mr.T.Aswin Rajasimman
for Mr.T.Lajapathi Roy

For Respondents : Mr.A.K.Manikkam,
Special Government Pleader
for RR1 to 4, and 6
Mr.P.Gunasekaran,
Standing Counsel for R5

O R D E R

All learned counsel, for petitioner as well as respondents, would concur on the position that the issue arising in this writ petition (i.e.,) re-fixation of petitioner's pension by including 50% of service rendered by him as Part Time Vocational Instructor in consolidated pay from 10.10.1979 to 31.03.1990 along with regular service stands covered by several decisions of this Court.

2. In W.P.(MD).Nos.24941 to 24947 of 2018, I have considered a similar issue in the context of those petitioners and stated as follows:-

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.

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.

3. In view of identity of the facts and legal positions, the same order is taken to be passed in the present matter as well. Thus, Writ Petition is allowed and the claims of the petitioner are liable to be accepted. The respondents will compute the benefits to be paid over and remit the same within a period of 10 weeks from today. No costs.

Sd/-

Assistant Registrar (CS-II)

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/ /2022

Sub Assistant Registrar(CS)

ssb



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.

WEB COPY

TO:

- 1.The Principal Secretary to the Government,
Department of School Education,
Fort St.George,
Chennai-9.
 - 2.The Director of School Education,
O/o.The Director of School Education,
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361, Anna Salai,
Chennai-600 018.
 - 6.The District Educational Officer,
O/o.the District Educational Officer,
Tuticorin,
Tuticorin District.
- +1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-3292[F] dated 01/02/2022)
- +1 CC to M/s.SPL.GP (SR-3696[F] dated 02/02/2022)

W.P. (MD)No.22984 of 2018
31.01.2022

RD(08.02.2022) 5P 9C