



W.P.No.15396 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.15396 of 2016
and W.M.P.No.13421 of 2016

D. Mathiazhagan

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Fort St. George, Chennai – 9.

2.The Director of School Education,
College Road,
Chennai – 6.

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

4.The District Educational Officer,
Thirupattur – 635 601,
Vellore District.

5.The Head Master,
Government High School,
R.S. Gudiyatham,
Vellore District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,



W.P.No.15396 of 2016

praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to impugned order of the first respondent passed in Letter No.24266/Nee. Va 3(2)/2015-2 dated 05.01.2016 and quash the same and direct the first respondent to implement the order of this Court passed in WP.No.15969/2015 dated 05.06.2015.

For Petitioner : Mr.M. Thamizhavel

For Respondents : Mr.K.H. Ravikumar
Government Advocate

ORDER

The petitioner herein was appointed temporarily as Casual Labour on daily wages, through District Employment Exchange on 19.06.1980. Thereafter, his services were regularized on 13.02.1989 as a Night Watchman. His request to count the period of services rendered between 19.06.1980 to 13.02.1989, for the purpose of fixation of his pension was kept pending, which prompted him to file a Writ Petition in WP.No.15969 of 2015 and by an order dated 05.06.2015, this Court had directed the respondents to consider the petitioner's representation, within a period of twelve weeks. Accordingly, the present impugned order was passed on 05.01.2016, rejecting the petitioner's request to count 50% of his past services.



W.P.No.15396 of 2016

2. The Government in G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009, had ordered for counting of 50% of the services rendered as a Casual Labour on daily wages, for the purpose of calculating the pensionable service. The respondents in the impugned order, have stated that the services rendered by the petitioner between 1980-1989 was a part-time labour. Such a statement seems to be factually incorrect, in view of the appointment order dated 19.06.1980, which evidences that the petitioner was temporarily appointed as a Casual Labour on daily wages. In view of the same, the petitioner would be entitled for the benefits under G.O.Ms.No.408, dated 25.08.2009, by counting 50% of his services as a part-time employee.

3. In the light of the above observations, the impugned order dated 05.01.2016 is hereby quashed. Consequently, there shall be a direction to the respondents, to forthwith count 50% of services rendered by the petitioner as a Casual Labour on daily wages from 19.06.1980 to 13.02.1989 and thereby, re-fix the petitioner's pension, including order for disbursement of the arrears of the pension. Such order shall be passed atleast within a period of four (4) weeks from the date of receipt of a copy of this order.



W.P.No.15396 of 2016

M.S.RAMESH,J.

Sni

4. With the above directions, this Writ Petition stands allowed. No costs. Connected miscellaneous petition is closed.

03.01.2023

Speaking order
Neutral Citation: Yes
Index: Yes

Sni

To

- 1.The Principal Secretary to Government of Tamil Nadu,
School Education Department,
Fort St. George, Chennai – 9.
- 2.The Director of School Education,
College Road, Chennai – 6.
- 3.The Chief Educational Officer,
Vellore, Vellore District.
- 4.The District Educational Officer,
Thirupattur – 635 601,
Vellore District.

W.P.No.15396 of 2016