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W.P.No.11495 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

CORAM:

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. Nos.11495 of 2020

T.Govindasamy

... Petitioner

/vs/

1. The Director of School Education,
DPI Campus,
Chennai – 600 006.
2. The District Educational Officer,
Ariyalur District.
3. The Accountant General – Tamil Nadu,
Teynampet,
Chennai – 600 018.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue Writ of Mandamus to direct the respondent herein to extend the benefit of Old Pension Scheme to the petitioner by counting 50% of the services rendered by the petitioner on consolidated pay in the post of Noon Meal Organizer by taking into consideration of the fact that the petitioner has been extended to Regular Scale of Pay vide G.O.Ms.No.70 dated 23.04.1998 much prior to 01.04.2003.

For Petitioner ... Ms.Shivani Sree S.V.
For Ms.Suneetha



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For Respondents ... Mr. T.Chezhiyan
Additional Government Pleader

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ORDER

This Writ Petition has been filed for the issuance of a Writ of Mandamus to direct the respondent herein to extend the benefit of Old Pension Scheme to the petitioner by counting 50% of the services rendered by the petitioner on consolidated pay in the post of Noon Meal Organizer by taking into consideration of the fact that the petitioner has been extended to Regular Scale of Pay vide G.O.Ms.No.70 dated 23.04.1998 much prior to 01.04.2003.

2. The learned counsel for the petitioner submitted that the petitioner was initially appointed as a Noon Meal Organiser on 22.12.1987 on a consolidated monthly pay of Rs.170/- and subsequently he was brought on regular time scale of pay from the year 1996 and the petitioner was extended with the regular time scale from 1996; thereafter the petitioner was duly selected as BT Assistant after qualifying a Special Examination and appointed as B.T.Assistant Geography vide proceedings dated 30.08.2006; the petitioner got retired from the services on 30.05.2019.



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2.2 The main grievance of the petitioner is despite the fact that the petitioner has rendered 30 years of service, his service as Noon Meal Organiser was not taken into consideration for the purpose of extending the benefit of old pension scheme; the respondents have taken into consideration only the services of the petitioner as BT Assistant and accorded new pension scheme which came into effect from 01.04.2003 extending the petitioner only the benefit of Contributory Pension Scheme instead of pension under the Tamil Nadu Pension Rules.

3. Aggrieved over the same, the petitioner by relying on the judgment of the Full Bench of this Court in ***The Government of Tamil Nadu represented by Secretary to Government & others Vs. R.Kaliamoorthy & others, in W.A.No.158 of 2016 & batch*** and claimed that a Government Employee / servant who had rendered service in non-provincialised service or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.



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4. For the sake of clarity, the relevant portion of the Judgment in ***The Government of Tamil Nadu represented by Secretary to Government & others Vs. R.Kaliamoorthy & others, in W.A.No.158 of 2016 & batch,*** is extracted hereunder:

“45. In the light of the above, we answer the reference as follows:

i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003.

ii) Those Government Servants / employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10(a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.

iii) In case, a Government employee / servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.

iv) Those Government servants who were appointed in the aforesaid four categories before the cut off dated and later appointed under Rule 10(a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.

v) Those Government Servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.”



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5. Taking into consideration of the said fact and also in the light of the above judgment of the Full Bench of this Court the petitioner should be paid with the benefit of Old Pension Scheme by including 50% of the services rendered by the petitioner on consolidated pay in the post of Noon Meal Organizer.

6. Hence, this Writ Petition is allowed and the respondents are directed to extend the benefit of Old Pension Scheme to the petitioner by including 50% of the services rendered by him on consolidated pay in the post of Noon Meal Organizer by taking into consideration of the fact that the petitioner has been brought on Regular Scale from the year 1996. No costs.

16.10.2023

Index: Yes / No

Speaking order / Non-speaking order

Netural citation : Yes / No

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R.N.MANJULA ,J.

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