



W.P.Nos.13452 & 13456 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.08.2023

CORAM

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.Nos.13452 & 13456 of 2020

W.P.No.13452 of 2020

K.Sakthivelu

... Petitioner in W.P.No.13452 of 2020

Vs.

1. The State of Tamil Nadu,
Rep. By its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.
3. The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.
4. The Chief Educational Officer,
Chengalpattu District,
Chengalpattu.



W.P.Nos.13452 & 13456 of 2020

WEB COPY

5. The District Educational Officer,
Chengalpattu Educational District,
St.Thomas Mount,
Chrompet,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to pass orders for counting 50% of service rendered by the petitioner as Part Time Vocational Instructor from 14.07.1986 to 12.09.1995 and to revise the retirement benefits including regular pension payable to the petitioner from the date of retirement on 31.05.2017 with all consequential and other attendant benefits as per G.O.M.s.No.194 School Education Department dated 12.09.2018, by considering the representation submitted by the petitioner dated 09.01.2020.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : M/s.C.Meera Arumugam, AGP

W.P.No.13456 of 2020

S.Pushpam

... Petitioner

1. The State of Tamil Nadu,
Rep. By its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai – 600 009.



W.P.Nos.13452 & 13456 of 2020

WEB COPY

2. The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.

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

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

5. The Block Educational Officer,
Thirumayam Block,
Pudukkottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to pass orders for counting 50% of service rendered by the petitioner as Part Time Vocational Instructor from 17.01.1986 to 15.09.1995 and to revise the retirement benefits including regular pension payable to the petitioner from the date of retirement on 31.05.2018 with all consequential and other attendant benefits as per G.O.M.s.No.194 School Education Department dated 12.09.2018, by considering the representation submitted by the petitioner dated 09.01.2020.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : M/s.C.Meera Arumugam, AGP



W.P.Nos.13452 & 13456 of 2020

WEB COPY

3. The petitioner in W.P.No.13456 of 2020 was initially appointed as Part Time Vocational Instructor in Panchayat Union Middle School, Kolathupatti, Thirumayam Block, Pudukkottai District on 17.01.1986. He has completed Short Term Secondary Teacher Training as per G.O.Ms.No.224 dated 24.03.1994 and posted as Full Time Vocational Instructor with effect from 15.09.1995 as per G.O.Ms.No.752 dated 18.10.1996.

4. Learned Counsel for the petitioners submitted that the Government has passed orders for bringing the Part Time Vocational Instructors into Full Time Vocational Instructor with regularization of service after completion of Short Term Secondary Teacher Training. On that basis, the petitioner in W.P.No.13452 of 2020 and the petitioner in W.P.No.13456 of 2020 were posted as Full Time Vocational Instructor with effect from 12.09.1995 and 15.09.1995 respectively and their services have been regularized.



W.P.Nos.13452 & 13456 of 2020

WEB COPY

5. Subsequently, the petitioner in W.P.Nos13452 of 2020 was working as Full Time Craft Teacher in Elementary Education, he was transferred to School Education on exercising option and posted as Vocational Instructor in Government Higher Secondary School, Thiruchendurai on 06.07.2001 and at the time of retirement, he was working as Vocational Instructor in Government Higher Secondary School, Pallikaranai, Kancheepuram District on reaching the age of superannuation on 31.05.2017.

6. The Tamil Nadu Secondary Grade Trained Technical Teachers Association filed Writ Petition before this Court on behalf of the similarly posted persons to count 50% of service rendered as Part Time Vocational Instructor for pensionable service and the same was allowed as per the order of this Court dated 31.07.2015, following several number of orders were passed by this Court in this regard. Subsequently Writ Appeal was filed by the State Government in W.A.No.1396 of 2017 wherein, it was ordered that the Writ Petition by an Association is not maintainable with further orders by stating that in



W.P.Nos.13452 & 13456 of 2020

WEB COPY

case of any employees are aggrieved, they should approach this Court after taking the matter to the Government. The petitioners have reached the age of superannuation on 31.05.2017 and 31.05.2018 respectively. In this regard, they submitted their representation on 09.01.2020 seeking to count the period of service rendered by them as Part Time Vocational Instructor as pensionable service. In this regard, the Government has also issued orders in G.O.Ms.No.194 School Education Department dated 12.09.2018, to count 50% period of service rendered as Part Time Vocational Instructor as pensionable service for payment of retirement benefits and regular pension.

7. He further submitted that this Court passed orders in batch of Writ Petitions to count 50% of service rendered as Part Time Vocational Instructor as pensionable service and the same were upheld by Division Bench of this Court.

8. The learned counsel for the petitioners relied on the judgment passed by this Court in W.P.No.20499 of 2021 dated 24.09.2021.



W.P.Nos.13452 & 13456 of 2020

WEB COPY

9. The learned Government Pleader appearing for the fourth respondent in W.P.No.13456 of 2020 submitted that the representation of the petitioner dated 09.01.2020 seeking to count the period of service rendered by her as part time vocational instructor from 17.01.1986 to 14.09.1995 as pensionable service is not accepted. Since the petitioner in W.P.Nos13456 of 2020 was appointed as part-time pre-vocational instructor and not a part-time vocational instructor under High Secondary Vocational Course. The two posts are entirely different from one another. The vocational instructor post borne on Higher Secondary Courses handling in Higher Secondary Schools are centrally sponsored. But the petitioner in W.P.No.1345 of 2020 was working as part time pre-vocational Instructor under Elementary Education. The Government has issued G.O.Ms.No.194, School Education, Department dated 12.09.2018 wherein, it has been specifically stated that the vocational instructors who have been working before 01.04.2003 have been brought into regular service in the regular time scale of pay and who have filed the writ petitioners before this Court and also Madurai Bench of Madras High Court and got specific orders that they are entitled to get 50% of



W.P.Nos.13452 & 13456 of 2020

calculating services to pension as per the abovesaid G.O. This petitioner has not filed any writ petition in this regard on the date of 06.04.2018.

10. The learned Government Pleader appearing for the fifth respondent in W.P.Nos13452 of 2020 has submitted that the Government in G.O.Ms.No.194, School Education dated 12.09.2018, has specifically ordered that the vocational instructors who worked in Government and Government aided Higher Secondary Schools and who were brought into regular establishment prior to 01.04.2003 and who got court orders in the High Court of Madras and Madurai and those who have filed Writ Petitions upto 06.04.2018 alone shall be entitled for counting of their 50% of the part time teacher service for the purpose of pension.

11. Heard the learned counsel appearing for the petitioners and the learned Government Pleader appearing for the respondents and perused the materials available on record.



W.P.Nos.13452 & 13456 of 2020

WEB COPY

12. The learned counsel for the petitioners relied on the order passed by this Court in W.P.No.20499 of 2021 dated 24.09.2021 and the relevant portion is extracted hereunder:

11. After considering the various decisions of this Court rendered earlier including that of the decision of the Hon'ble Division Bench of this Court, this Court ultimately 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 latches, 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.”



W.P.Nos.13452 & 13456 of 2020

The order of the Hon'ble Division Bench of this Court dated 06.04.2018 was implemented by the Government in G.O.Ms.No.194, School Education (SE7-1) Department dated 12.09.2018.

14. Incidentally, in a similar batch of case, the Hon'ble Division Bench of this Court in W.A(MD).No.656 of 2020 dated 25.08.2020 has upheld the contentions of the persons who have retired after the order was passed by the Hon'ble Division Bench of this Court referred to supra. The relevant paragraphs from the aforesaid order reads as under:-

“8. In the considered opinion of this Court, the case of the first respondent herein/writ petitioner is similar to that of the respondents in the above writ appeals and though it was open to the appellants/official respondents 1 to 4 to confer the similar benefit without asking them to approach the Court, they were asked to get individual orders, may be on account of financial liability. The factual aspects pertaining to service condition of the first respondent/writ petitioner are not under dispute. The issue relating to delay and laches depends upon the facts and circumstances of the case and there cannot be any straight jacket formula while considering the said issue and in the case on hand, the same cannot



W.P.Nos.13452 & 13456 of 2020

be put against the first respondent/writ petitioner in the light of the settled position of law that persons similarly placed have to be conferred with the same benefits without driving them to the Court.

9. In the light of the legal position being settled as to the entitlement of the first respondent/writ petitioner, this Court is of the considered view that in terms of the above cited two judgments of the Division Bench of this Court, this writ appeal deserves dismissal.

10. In the result, this writ appeal is dismissed, confirming the order, dated 02.08.2018, passed in W.P(MD)No.17306 of 2018 and the appellants/official respondents are directed to settle the retiral/terminal/consequential benefits to the first respondent/writ petitioner within a period of ten weeks from the date of receipt of a copy of this order. However, it is made clear that the first respondent/writ petitioner is not entitled to any interest as to the settlement/belated settlement of the retiral/terminal/consequential benefits. No costs. Consequently, the connected civil miscellaneous petition is also dismissed.”

15. In view of the above, this Writ Petition deserves to be allowed and is accordingly allowed. The respondent shall implement this order within a period of twelve weeks from the date of receipt of a copy of this order. No costs.



W.P.Nos.13452 & 13456 of 2020

WEB COPY

13. In view of the above facts and the ratio laid down by this Court vide order dated 24.09.2021 in W.P.No.20499 of 2021, this Court is of the considered view that 50% of service rendered by the petitioners as Part Time Vocational Instructor has to be taken into account and to revise the retirement benefits including regular pension payable to the petitioners from the date of retirement with all consequential and other attendant benefits.

14. In the result, the respondents are directed to count 50% of service rendered by the petitioners as Part Time Vocational Instructor and to revise the retirement benefits including regular pension payable to the petitioners from the date of their retirement with all consequential and other attendant benefits as per G.O.M.s.No.194 School Education Department dated 12.09.2018, by considering the representations submitted by the petitioners dated 09.01.2020.



W.P.Nos.13452 & 13456 of 2020

15. With the above direction, the writ petitions are allowed.

There shall be no order as to costs.

24.08.2023

mfa

To

1. The Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.
3. The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.
4. The Chief Educational Officer,
Chengalpattu District,
Chengalpattu.
5. The District Educational Officer,
Chengalpattu Educational District,
St.Thomas Mount,
Chrompet, Chennai.



W.P.Nos.13452 & 13456 of 2020

WEB COPY

6. The Chief Educational Officer,
Pudukkottai District,
Pudukkottai.
7. The District Educational Officer,
Pudukkottai Educational District,
Pudukkottai.
8. The Block Educational Officer,
Thirumayam Block,
Pudukkottai District.



WEB COPY



W.P.Nos.13452 & 13456 of 2020

J.SATHYA NARAYANA PRASAD,J.,

mfa

W.P.Nos.13452 & 13456 of 2020

24.08.2023