



W.P.No.14966 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.14966 of 2020

S.Pandurangan

... Petitioner

/vs/

1. The Director of School Education,
DPI Campus,
Chennai – 600 006.

2. The Chief Educational Officer,
Villupuram.

3. The Accountant General of India,
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 count 50% of the services of the petitioner on consolidated pay and extend the old pension scheme under the Tamil Nadu Pension Rules 1978 to the petitioner by taking into account of the fact that the petitioner was brought on Regular Time Scale of pay with effect from 01.01.1996 and was on Pensionable Service with effect from 04.07.2012.



WEB COPY



W.P.No.14966 of 2020

For Petitioner ... Ms.Shivani Sree S.V.
For Ms.Suneetha
For Respondents ... Mr. T.Chezhiyan
Additional Government Pleader

ORDER

This Writ Petition has been filed for the issuance of a Writ of Mandamus to direct the respondent herein to count 50% of the services of the petitioner on consolidated pay and extend the old pension scheme under the Tamil Nadu Pension Rules 1978 to the petitioner by taking into account of the fact that the petitioner was brought on Regular Time Scale of pay with effect from 01.01.1996 and was on Pensionable Service with effect from 04.07.2012.

2. The learned counsel for the petitioner submitted that the petitioner was initially appointed as a Noon Meal Organiser on 28.01.1983 on a consolidated monthly pay of Rs.150/- 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 vide proceedings dated 30.08.2006; the petitioner got retired from the services on attaining the age of superannuation on 31.08.2019.



W.P.No.14966 of 2020

WEB COPY

2.2 The main grievance of the petitioner is despite the fact that the petitioner's 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.



W.P.No.14966 of 2020

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.”



W.P.No.14966 of 2020

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 of Pay with effect from 01.01.1996. No costs.

16.10.2023

Index: Yes / No
Speaking order / Non-speaking order
Netural citation : Yes / No
bkn



WEB COPY



W.P.No.14966 of 2020

R.N.MANJULA ,J.

bkn

To:

1. The Director of School Education,
DPI Campus,
Chennai – 600 006.
2. The Chief Educational Officer,
Villupuram.
3. The Accountant General of India,
Teynampet,
Chennai – 600 018.

W.P.No.14966 of 2020

16.10.2023