



WP.Nos.27429, 27432, 27434, 27435, 27437, 27438, 27441, 27442, 27444 & 27447 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

WP.Nos.27429, 27432, 27434, 27435, 27437,
27438, 27441, 27442, 27444 & 27447 of 2023

W.P.No.27429 of 2023

M.Duraikannu

.. Petitioner

Versus

1. The Government of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Fort St. George, Chennai – 600 009.

2. The Director of School Education,
Chennai – 600 006.

3. The Joint Director
Higher Secondary (Vocational)
Chennai – 600 006

4. The Chief Educational Officer,
Perambalur District

5. The Headmaster
Government Girls Higher Secondary School
Perambalur District

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to take into account of the service rendered by the petitioner from initial appointment till regularisation (i.e., 04.02.1986 to 04.10.1996) for the purpose of retirement benefits, including pension.



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In all cases

For Petitioners

: Mr.Saravanakumar

For Respondents

: Mr.M.Alagu Goutham for R1 to R5
Government Advocate

COMMON ORDER

These writ petitions have been filed seeking to direct the respondents to take into account of the service rendered by the petitioner from their initial appointment till regularisation for the purpose of retirement benefits, including pension..

2. Since, the facts and circumstances of these cases are identical in nature, these cases are disposed of by way of this Common Order.

3. The petitioners had retired as vocational teacher. It is the grievance of the writ petitioners that their 50% of past service has to be calculated for the pensionary benefits. It is the contention of the writ petitioner that their services were regularised belatedly and their past service has to be considered as similarly situated persons are already given such benefits, i.e., to count 50% of the service from the date of their respective initial appointment till the date of regularisation. Hence, the petitioner is also entitled to such relief pursuant to the Rule 11 (4) of the Tamil Nadu Pension Rules, 1978. Hence, seeks a



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direction.

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4. The matter is no longer res integra. Even in the latest judgment of this Court in W.A.Nos.2907 to 2910 of 2019 etc., batch cases, wherein, this Court has held as follows:

7. The petitioners have also been appointed as part time Vocational Instructors and thereafter, their service have been regularized prior to 01.04.2003. Therefore, they are also entitled for counting 50% of their past service rendered as part time Vocational Instructors for calculating their pension. However, the learned single Judge in the impugned order had directed the case to be considered in accordance with G.O.Ms.No.194, School Education Department, dated 12.09.2018, which direction according to us in view of the subsequent development would not be an appropriate direction.

8. Therefore the respondents are directed to take into consideration the 50% of the service rendered by them from the date of initial appointment till the date of regularization as part time Vocational Instructors that each of the petitioners have put in and recalculate their pension that is paid to the petitioners.

10. We also take judicial notice of the fact that various such claims are pending before this Court for very long time. In such circumstances, it would only be incumbent upon the Government to issue a Government Order, wherever the Vocational Instructors who have been regularised before 01.04.2003 and who prior to their regularisation have been working as part time/temporary basis, then in their respect 50% of such service from the date of initial appointment to the date of regularisation shall be reckoned for calculating their pension and their pension shall be re-fixed. This direction is issued considering the fact that such persons even after their superannuation being senior citizens should not be



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unnecessarily driven to Court. Considering the said circumstances, we direct the Government to issue such order within a period of three (3) months from the date of receipt of a copy of this order."

5. Similarly, in the judgment of this Court in W.A.Nos.2133 of 2019 etc., batch cases dated 03.03.2023, this Court has held as follows:

" 8. No doubt, the writ petitioners have approached the Court with few months delay and it is not in dispute, that, but for the fixation of cut-off date, they would have been entitled to the benefits of service rendered by them as vocational teachers. The learned Single Judge in the common order in W.P.No. 14365 of 2014 dated 09.07.2018 had also referred the common judgment dated 06.04.2018 made in W.A.No.882 of 2017 etc., and having noted the fact that persons similarly placed have been granted the benefits by referring to various judgments of the Hon'ble Supreme Court of India had held that the petitioners in those writ petitions are also entitled to such benefits. Therefore, the principle as enunciated in the above said order is that, the respondents/officials cannot deny the lawful right of the appellants/petitioners herein, which have already accrued to them and has been continuously accruing. Therefore, restricting the benefits only to those petitioners who approached this Court prior to 06.04.2018 and denying the same to the appellants/petitioners who are similarly placed is unreasonable, arbitrary and violative of the Article 14 of the Constitution of India.

9. Further more, the learned counsel appearing for the appellants/petitioners would submit that the writ petitions filed by the appellants/petitioners were disposed, following the G.O.Ms.No.194 dated 12.09.2018. However, a Writ petition in W.P.(MD).No.22785 of 2019 etc. batch dated 05.11.2019 was filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned G.O.Ms. No.194, dated 12.09.2018 issued by the



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first respondent and quash the same with regard to the cut-off date i.e., 06.04.2018 and directing the respondents to take the 50% of the part time service rendered by the petitioner in that writ petition.

10.The observation made in the W.P.(MD).No.22785 of 2019 etc., batch is extracted as hereunder:

"Placing reliance on the observation made in W.P.(MD).No.14365 of 2014 etc., batch, this Court has passed the following order :

6.The learned counsels for the petitioners would submit that, the issue raised in this batch of cases is covered by number of orders passed by this Court. They also submitted that, the decisions rendered by the learned Single Judge of this Court, had been upheld by a Division Bench of this Court, where also, the said view taken by the Writ Court had been confirmed and in some of the cases the matters were taken up to the Hon'ble Supreme Court, where also, the view taken by this Court directing the official respondents to calculate the 50% of the services temporarily rendered by the similarly placed persons for the purpose of their pensionary benefits, had been affirmed and upheld and the orders have also been complied with by issuing Government Orders in this regard. All those, who have already filed writ petitions and got orders for recalculating the pension, are fully eligible for pension by taking into account their 50% of the past services rendered by them before their absorption.

11. Therefore, the respondents cannot deny the lawful right of the appellants/petitioners herein by virtue of G.O.Ms.No.194 dated 12.09.2018 for the reason that the cut-off date in the said G.O has been quashed in the above mentioned writ petitions. Therefore, the objections raised by the respondent/officials are liable to be rejected, accordingly they are rejected. The appellants/petitioners are entitled to, for calculating 50% of the past services, rendered by each of the petitioner in the respective



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employment before they got absorbed by bringing them under the time scale of pay irrespective of the years of service, for the purpose of pensionary benefits. Accordingly, this point is answered.

12. In the result, these writ appeals are allowed subject to the above observations, setting aside the orders in all the writ petitions mentioned above. Consequently, connected writ petitions are allowed. The respective respondents in each of the writ appeals/writ petitions are hereby directed, after fixing the revised pension by taking into account the past 50% services, the revised pension arrears shall be calculated and to be disbursed to the appellants/petitioners within a period of twelve weeks from the date of receipt of a copy of this order. No costs."

6. Such view of the matter, the petitioners are similarly situated persons, they are certainly entitled to pensionary benefits. Accordingly, there shall be a direction to the respondent to calculate 50% from the date of their respective initial appointment till the date of regularisation for the pensionary benefits. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this Order.

7. Accordingly, these writ petitions stands disposed of. No costs.

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Index: Yes/No

Internet: Yes/No



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