



W.P.Nos.25603 of 2018 etc batch

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.Nos.25603, 25937, 26068, 26181, 26009, 25999, 26222, 26680,
31455, 31471, 31480, 31482, 31463, 33457, 33466 and 33464 of 2018

and

W.M.P.Nos.29756, 29759, 30141, 30144, 30291, 30294, 30405,
30406, 30224, 30227, 30209, 30213, 30444, 30448, 31055, 31056,
36649, 36652, 36675, 36677, 36682, 36685, 36687,
36688, 36660 and 36666 of 2018

W.P.No.25603 of 2018

A.Thamizhselvan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its
Secretary to Government,
Finance (Pay Cell) Department,
Fort St. George,
Chennai - 600 009.

2.The State of Tamil Nadu,
Represented by its
Deputy Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.



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- 3.The Director of School Education,
DPI Compound,
College Road,
Chennai - 600 006.
 - 4.The Joint Director (Vocational),
Directorate of School Education,
DPI Compound,
College Road,
Chennai - 600 006.
 - 5.The Chief Educational Officer,
Nagapattinam, Nagapattinam District.
 - 6.The District Educational Officer,
Nagapattinam, Nagapattinam District.
 - 7.The Head Master,
R.Natesanar Government Higher Secondary School,
Ayakkaranpulam,
Vedaranyam Taluk,
Nagapattinam District.
- ... Respondents

Common Prayer: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the letter of the second respondent having Ref.No.16280/VE/2011-4 dated 14.06.2012 to the third respondent rejecting the request of the third respondent to take the service rendered by part time vocational instructions for the purpose of pension and quash the same and consequently direct the fourth respondent to send the proposal for computing the 50% service rendered by the petitioner as part time vocational instructors drawing consolidated pay for calculating the



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qualifying service for pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules to the second respondent to enable the first respondent to sanction the pension to the petitioner based on the said proposal from the date of retirement of the petitioner and to enable the concerned authorities to disburse the pension to the petitioner.

In all W.Ps

For Petitioners : Mr.S.Shanmugasundaram
for Mr.R.Murugabharathi

For Respondents : Mr.R.Neelakandan
Additional Advocate General
Assisted by
Mrs.C.Meera Arumugam
Additional Government Pleader

COMMON ORDER

All these writ petitions have been filed by Part Time Vocational Instructors/petitioners, to quash the impugned letter having Ref.No.16280/VE/2011-4 dated 14.06.2012 of the second respondent to the third respondent, rejecting the request of the third respondent to take the services rendered by the petitioners, for the purpose of calculation of pension.



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2. The common grievance of all the writ petitioners is that the respondents are not taking the services rendered by them as Part Time Vocational Instructors for the purpose of calculation of the number of years of services while considering the petitioners pension eligibility as also the quantum of pension under the Tamil Nadu Pension Rules, 1978.

3. It is also seen that there are different categories of persons which:

(1) comprising of persons who retired serving in various Government Schools

(2) comprising of persons who retired after serving in Government Aided Schools and

(3) the persons, who held post graduate degree in Commerce and worked as Vocational Instructors and subsequently promoted as P.G. Assistants and thereafter retired from services.

4. It is not in dispute that the pension disbursing authorities for all the three categories are the Joint Director (Vocational), the concerned



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District Educational Officers and Commissioners of Corporation respectively.

5. In and by G.O.Ms.No.712, Education (HS) Department dated 28.05.1990, Part Time Vocational Instructors were regularized with effect from 01.04.1990. The said Government Order was also upheld by this Court. Thereafter, the Government decided to give monetary benefits from the date of regularization of services of 689 Vocational Instructors. In the mean time, G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009 was issued and in terms of the same as per the Rules 2 and 11 of the Tamil Nadu Pension Rules, 1978, the services rendered by person in non-provincialized service or pensioners receiving consolidated pay, Honorarium, Daily Wages will not be reckoned for calculating pensionable services. It was also decided that persons, who have been made permanent with effect from 01.04.2003 would also not be eligible for pension. However, the Government Order, considering humanitarian grounds, decided to take 50% of the services rendered by the Full Time Instructors between 01.01.1961 and 01.04.2003 for the purpose of calculating pension, subject to they having been absorbed as permanent



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Government employees on or before 01.04.2003 without any break.

6. A letter dated 08.05.2012 was issued by the Director of School Education to the Secretary, Education Department, to take note of 50% of the services rendered by the Part Time Vocational Instructors for the purpose of calculating their pension in terms of G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009. The Association of Tamil Nadu Higher Secondary Vocational Teachers also made a representation on 23.08.2013 in this regard and requested for giving them exemption in the terms of G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009, taking into account their length of service while calculating their pension.

7. However, the respondents in and by impugned order dated 14.06.2012, refused to take the services rendered by the Part Time Vocational Instructors for the purpose of calculating their pension based on G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009. The said decision is challenged in all these writ petitions.

8. The respondents have filed a counter affidavit placing reliance



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on the Division Bench Judgment of this Court in W.A.Nos.882 of 2017 etc., batch dated 06.04.2018 where, this Court fixed cut-off date namely 06.04.2018 i.e., the date of Judgment in the writ appeals.

9. The reasoning of the Division Bench was that the benefit could be extended only to the persons before the Court and similarly placed persons, whose cases were already pending before the Court in order to avoid a Pandora's Box being opened.

10. In furtherance of the Judgment of the Division Bench of this Court, the Government brought to G.O.Ms.No.194, School Education (SE7-1) Department dated 12.09.2018, where, it was decided that the benefits would be availed only for the persons, whose cases were either disposed of or pending at the cut-off date namely 06.04.2018.

11. It is also contended by the learned Additional Advocate General for the respondents that, this order is also subsequently followed by a learned Single Judge of this Court in W.P.No.31515 of 2018.

12. However, the learned counsel for the petitioners would invite



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attention of this Court to the recent pronouncement of the Division Bench of this Court in W.A.Nos.2133 of 2019 etc., batch dated 03.03.2023, where, this Court has referred to G.O.Ms.No.194, School Education (SE7-1) Department dated 12.09.2018, fixing the cut-off date, upheld the Government Order being quashed the same in a batch of writ petitions namely W.P.(MD).No.22785 of 2019 etc., batch dated 05.11.2019.

13. The case on hand is no different. The only contention or objection taken by the respondents is relying on the Judgment of the Division Bench of this Court in W.A.Nos.882 of 2017 etc., batch dated 06.04.2018.

14. However, it is seen that subsequently much water has flown. The Government chose to pass G.O.Ms.No.194, School Education (SE7-1) Department dated 12.09.2018, which was also given effect to. However, when the said Government Order was subject matter before the Division Bench of this Court in a batch of writ petitions i.e., in W.A.Nos.2133 of 2019 etc., batch and this Court has quashed the Government Order and therefore, it is no longer open to the respondents



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to place reliance on G.O.Ms.No.194, School Education (SE7-1) Department dated 12.09.2018 and insist that the concerned employees should fall within the cut-off date namely 06.04.2018.

15. In fact, in W.A.Nos.2133 of 2019 etc., batch, the Division Bench of this Court held as follows:-

"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 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."

16. In view of the above, there is absolutely no impediment for the petitioners to seek relief in line with the earlier order passed by this Court in W.A.Nos.2133 of 2019 etc., and consequently, the petitioners are entitled to have their services rendered as Part Time Vocational



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Instructors, being taken into account for the purpose of calculation of pension and while computing the same, 50% of their services rendered as Part Time Vocational Instructors would be factored for arriving at the pension as well as the quantum of pension payable to them under Rule 42 of the Tamil Nadu Pension Rules, 1978.

17. Accordingly, these Writ Petitions are allowed and the impugned orders are set aside. The respondents shall refix the pension payable to the respective writ petitioners taking into account 50% of their past services and the revised arrears of pension shall be calculated and disbursed to the respective writ petitioners, within a period of twelve (12) weeks from the date of receipt of a copy of this order. No costs. The connected Writ Miscellaneous Petitions are closed.

22.06.2023

Index : Yes / No
Internet : Yes / No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes / No

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Government of Tamil Nadu,
Finance (Pay Cell) Department,
Fort St. George,
Chennai - 600 009.
- 2.The Deputy Secretary,
Government of Tamil Nadu,
School Education Department,
Fort St. George,
Chennai - 600 009.
- 3.The Director of School Education,
DPI Compound,
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- 4.The Joint Director (Vocational),
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