



W.P(MD)No.9587 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9587 of 2023

T.Sobitha Raj

... Petitioner

Vs

- 1.The State represented by
The Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai – 600 009.
- 2.The Director of School Education (Vocational),
D.P.I.Campus,
College Road,
Chennai – 6.
- 3.The Accountant General,
O/o the Accountant General (A & E),
Teynampet,
Chennai – 600 018.
- 4.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents herein to take 50% of service rendered by the petitioner as Part-Time Vocational Instructor drawing consolidated pay between 02.07.1979 to 07.12.1999 along with regular service from 08.12.1999 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears in the light of the G.O(2D)No.25 dated 01.03.2023 by the first respondent within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.P.Saravana Kumar

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader
for R.1, R.2 & R.4

Mr.P.Gunasekaran
Standing Counsel for R.3

ORDER

Heard the learned counsel on either side.

2. The petitioner was appointed as single part time Vocational Instructor on 02.07.1979. It was duly approved on 13.10.1979. The only demand now placed by the petitioner is that 50% of the service rendered by him as part time vocational instructor from 02.07.1979 to 07.12.1999 should be taken into



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account for calculating his qualifying service. The issue on hand is no longer

res integra. It is covered vide order dated 12.04.2023 made in W.P(MD)No.

6757 of 2023, I had held as follows:

“6.Though the Hon'ble Division Bench passed an order dated 06.04.2018 as stated by the learned Additional Government Pleader, subsequent benches have taken a contra view. My attention is drawn to the order dated 13.08.2020 passed in ***W.A(MD)No.517 of 2020 (The State of Tamil Nadu Vs. S.Durairaj & another)*** in which it was held that while similar claims can be entertained, interest will have to be denied. An authoritative pronouncement has come recently on 03.03.2023 in ***W.A.No.2133 of 2019 etc batch (M.Velliyangiri Vs. The Government of Tamil Nadu)***. The Hon'ble Division Bench posed a specific issue as to whether writ petitions filed subsequent to the cutoff date can also be entertained. Paragraph Nos.11 and 12 of the said order read 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.

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.”

The case on hand is squarely covered by the aforesaid decision. The respondents are directed to take into account 50% of the part time service of the petitioner herein. The petitioner's pensionary benefits will be refixed accordingly. Arrears shall also be paid. But the petitioner will not be entitled to any interest. The entire exercise shall be completed within a period of sixteen weeks from the date of receipt of a copy of this order.”

The same approach has been adopted in this case also. The respondents are directed to include 50% of the petitioner's part time service rendered between



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02.07.1979 to 07.12.1999. The petitioner's pension shall be refixed accordingly. Arrears shall also be paid. The entire exercise shall be completed within a period of four months from the date of receipt of a copy of this order.

3. This writ petition is allowed accordingly. There shall be no order as to costs.

30.06.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

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G.R.SWAMINATHAN, J.

MGA

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