



W.P. No.24329 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.24329 of 2015

and

M.P. Nos.1 and 2 of 2015

- 1.S.Kaliyamurthi (Deceased)
- 2.Maheswari
- 3.Abinaya
- 4.Venkatesan

... Petitioners

Vs.

- 1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Finance Department, Fort St.George, Chennai-600 009.
- 2.The State of Tamil Nadu,
Rep. By its Secretary to Government,
School Education Department,
Fort St.George, Chennai-600 009.
- 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.

... Respondents

(P2 and P4 substituted as LR's of deceased sole petitioner vide order dated 22.08.2022 made in W.M.P.No.17353 of 2022 in W.P.No.24329 of 2015 by SMSJ)



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the letter of the 2nd Respondent having Ref.No.16280/VE/2011-4, dated 14.06.2012 to the 3rd Respondent rejecting the request of the 3rd Respondent to take the service rendered by part time vocational instructors for the purpose of pension and quash the same and consequently direct the 4th 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 qualifying service for pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules to the 2nd Respondent to enable the 1st 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.

For Petitioners : Mr.K.Rishi Adhithya
for Mr.R.Murugabharathi

For Respondents : Mr.Abishek Murthy
Government Advocate

ORDER

The present writ petition is filed praying for a Writ of Certiorarified Mandamus calling for the records relating to the letter of the 2nd Respondent having Ref.No.16280/VE/2011-4, dated 14.06.2012 addressed to the 3rd Respondent rejecting the request of the 3rd Respondent to take the service rendered as part time vocational instructors for the purpose of pension.

2. The short question that arises for consideration is whether the



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petitioner is entitled to take into account 50% of the past services rendered as Vocational Instructor for the purpose of calculating pensionary benefits.

3. The petitioner joined service as a teacher in Swamy Dayanadha Higher Secondary School, Manjakudi, Kudavasal Taluk, Thiruvarur District on 07.08.1981 as double part time vocational instructor as per the proceedings/ letter of the School Secretary in P.C.No.1793/1/81-92 dated 07.08.1981. The petitioner's service was regularised on 10.07.2007 vide proceeding of the 3rd Respondent in Na.Ka.No.5046/V1/E1/2003-01 dated 10.07.2007, with effect from 01.04.1990. The petitioner's scale of pay was fixed at Rs.1400-40-1600-50-2300-60-2600. It is submitted that the letter of the 2nd Respondent addressed to the 3rd Respondent, dated 14.06.2012 wherein the request to take the service rendered by the petitioner as part time vocational instructors for the purpose of pension was rejected, is unsustainable.

4. At the outset, it was submitted by the learned counsel for the petitioner that the issue stands covered by a recent judgment of this Court in



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a batch of writ petitions in W.P.Nos.25603 of 2018 dated 22.06.2023 and a

G.O.No.127 dated 12.07.2023 has been issued recently which governs the

issue. The relevant portions of the said order reads as under:

“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 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....”

5. The learned counsel for the Respondents would submit that the matter would be reconsidered taking into account the above judgment of this



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Court and the government order, which was acceded to by the learned counsel for the petitioner.

6. In view thereof, the impugned order is set aside with a direction to the 2nd Respondent to reconsider the issue afresh taking into account the judgment of this Court in W.P.No.25603 of 2018 dated 22.06.2023 and the government order in G.O.Ms.No.127 dated 12.07.2023 after putting the petitioner on notice and after affording an reasonable opportunity of hearing within a period of twelve (12) weeks from the date of receipt of a copy of this order. The writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

22.07.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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To:
1.The Secretary to Government,

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Finance Department, Fort St.George, Chennai-600 009.

2. The Secretary to Government,
School Education Department,
Fort St.George, Chennai-600 009.

3. The Director of School Education,
DPI Compound, College Road, Chennai-600 006.

4. The Joint Director (Vocational),
Directorate of School Education,
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MOHAMMED SHAFFIQ, J.

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