



WEB COPY



W.P.No.5373 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.5373 of 2020
and W.M.P.No.6309 of 2020

A.Muruganandan

... Petitioner

-Vs-

1. The State of Tamil Nadu,
Rep. by its Principle Secretary to Government,
School Education Department,
Fort.St.George, Chennai - 600 009.
2. The Director of School Education,
DPI Compound, College Road,
Chennai -600 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the second Respondent in Proceedings having reference No. Na.Ka.No.32749/V1/E1/2019 dated 14.08.2019 and quash the same and direct the second respondent to reckon 50 % of the service rendered by the Petitioner as Part Time Vocational Instructor from 1985 upto the date he was regularized in the time scale of pay as Full time Vocational Instructor w.e.f 16.10.1992 pursuant to G.O.Ms.No.967 Education (HS.3) Department dated 16.10.1992 for calculating his pensionable service in compliance with the order of the Madurai Bench of the Madras High Court dated 05.11.2019 in W.P.(MD) Nos.22785 etc of 2019.



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For Petitioner : M/s C.Uma
For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

This writ petition has been filed for the issuance of Writ of Certiorarified Mandamus, calling for the records of the second Respondent in Proceedings having reference No.Na.Ka.No.32749/V1/E1/2019 dated 14.08.2019 and quash the same and direct the second respondent to reckon 50 % of the service rendered by the Petitioner as Part Time Vocational Instructor from 1985 upto the date he was regularized in the time scale of pay as Full time Vocational Instructor w.e.f 16.10.1992 pursuant to G.O.Ms.No.967 Education (HS.3) Department dated 16.10.1992 for calculating his pensionable service in compliance with the order of the Madurai Bench of the Madras High Court dated 05.11.2019 in W.P.(MD) Nos.22785 etc of 2019.

2. Heard both sides and perused the materials available on record.

3. On 16.09.1985, the petitioner was appointed as a part-time Vocational Teacher. Later, the post was upgraded as a double part-time Vocational Teacher. The petitioner's services were regularized as Vocational Instructor on 16.10.1992. The Government had issued orders on 09.02.2010 enabling the



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counting of 50% of service of the temporary service for the purpose of calculating pensionary benefits. Accordingly, in G.O.Ms.No.194, School Education Department dated 12.09.2018, counting of 50% of the part-time service of the Vocational Teachers was ordered and extended to the teachers who had filed cases on or before 06.04.2018.

4. This issue was already a subject matter in a batch of Writ Petitions in WP.(MD).No.22785 of 2019 etc., batch whereby, vide its order dated 05.11.2019, it was held that when a relief is granted to an employee with regard to counting of 50% of service rendered by him as a part-time employee, the same cannot be restricted only to the persons who had filed a Writ Petition and by giving a cut off date of 06.04.2018. The aforesaid decision came to be cited in another batch of Writ Appeals in WA.No.2133 of 2019 etc., batch and by an order dated 03.03.2023, the Hon'ble Division Bench had quashed the cut off date in the following manner:-

“..... 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



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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 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.....”

5. Since the cut off date in G.O.Ms.No.194 School Education Department



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dated 12.09.2018, has already been quashed by the order of the Hon'ble Division Bench, no separate orders required in the present Writ Petition, insofar as it relates to the cut off date.

6. In view of the above observations, the impugned order passed by the second respondent in Reference No.Na.Ka.No.32749/V1/E1/2019 dated 14.08.2019, is hereby quashed. Consequently, there shall be a direction to the second respondent to count 50% of the petitioner as a Part Time Vocational Instructor from 1985 upto the date he was regularized in the time scale of pay as Full time Vocational Instructor w.e.f 16.10.1992 pursuant to G.O.Ms.No.967 Education (HS.3) Department dated 16.10.1992 for calculating his pensionable service. Such orders shall be passed atleast within a period six (6) weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition stands allowed. Consequently, connected Miscellaneous petition is closed. No costs.

24.09.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
mn

G.K.ILANTHIRAIYAN. J.

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To

1. The Principle Secretary to Government,
The State of Tamil Nadu,
School Education Department,
Fort.St.George, Chennai - 600 009.
2. The Director of School Education,
DPI Compound, College Road,
Chennai -600 006.

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