



W.P.Nos.3074 and 3075 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.3074 and 3075 of 2012

W.P.No.3074 of 2012

M.Kasiammal

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Fort St. George, Chennai – 600 009.
2. The Secretary to Government,
Finance (Pension) Department,
Fort St. George, Chennai – 600 009.
3. The Director of Elementary Education,
College Road, Chennai – 600 006.
4. The District Elementary Education Officer,
Dharmapuri District, Dharmapuri.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India,
to issue a Writ of Mandamus, directing the respondents to treat the service



W.P.Nos.3074 and 3075 of 2012

rendered in the post of Supervisor, Adult Education for a period from 28.01.1980 to 30.01.1989 as a qualifying service in the pensionable establishment and on Civil post and add the same to the service rendered in the post of Secondary Grade Teacher, Primary School Headmaster and Middle School Headmaster for a period from 31.10.1989 to 30.6.2009 for the purpose of pensionary benefits and pay fixation and grant arrears of pay and arrears of pension by sending a revised pension proposal to the Accountant-General.

W.P.No.3075 of 2012

R.Moorthy

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Fort St. George, Chennai – 600 009.
2. The Secretary to Government,
Finance (Pension) Department,
Fort St. George, Chennai – 600 009.
3. The Director of Elementary Education,
College Road, Chennai – 600 006.
4. The Joint Director of Informal and Adult Education,
College Road, Chennai – 600 006.



W.P.Nos.3074 and 3075 of 2012

5. The District Elementary Education Officer,
Erode District, Erode.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 4th respondent issued in Na.Ka.No. 493/A2/2011 dated 10/05/2011 and quash the same and issue a consequential direction to the respondents to treat the service rendered in the post of Supervisor, Adult Education for a period from 28.01.1980 to 30.01.1989 as a qualifying service in the pensionable establishment and on Civil post and add the same to the service rendered in the post of Secondary Grade Teacher, Primary School Headmaster and Middle School Headmaster for a period from 01.11.1989 to 30.6.2010 for the purpose of pensionary benefits and pay fixation and grant arrears of pay and arrears of pension by sending a revised pension proposal to the Accountant-General.

In both W.Ps

For Petitioner : Mr.R.Saseetharan

For Respondent : Mr.K.H.Ravikumar,
Government Advocate



W.P.Nos.3074 and 3075 of 2012

COMMON ORDER

WEB COPY

The petitioners herein, who were initially appointed as 'Adult Educational Officers' were considered for being appointed to the post of 'Secondary Grade Teachers' by virtue of orders issued in G.O (Ms) No.1211, School Education Department, dated 07.09.1989 and accordingly, they were appointed as 'Secondary Grade Teacher' and retired from service on attaining the age of superannuation. However, while fixing the pension of the petitioners, the services rendered by the petitioners, as 'Secondary Grade Teachers' only was taken into consideration, ignoring the services rendered by the petitioners in the post of 'Adult Educational Officers' for about 9 years. The claim of the petitioners in these Writ Petitions are to take into account the services rendered by them as 'Adult Educational Officers' also for the purpose of qualifying service for grant of pension. Though the petitioners made a claim for counting the entire services rendered by them as 'Adult Educational Officers', no basis is placed before this Court for claiming such a benefit.

2. However, as seen from the counter-affidavit, especially Paragraph



W.P.Nos.3074 and 3075 of 2012

No.6, wherein it is stated that in terms of G.O (Ms) No.408 dated 25.08.2009, half of the services rendered in the non-provincialised services and services rendered on consolidated pay can be counted for the purpose of qualifying service in terms of Rule 11(4) of the Tamil Nadu Pension Rules, 1978. The relevant Paragraph No.6 reads as under:-

“6. It is submitted that the Government of Tamilnadu issued orders in G.O (Ms) No.408 dated 25.08.2009 copy enclosed stating that "the non provincialised service and service rendered on consolidated pay followed by regular absorption, half of the said service can be taken together with the regular service and pension can be granted". As per the above Government Orders the petitioner's request may be considered for counting the services rendered in State Adult Education Programme for pension, but she had to produce the necessary records, as required by the Elementary Education Department.”

3. The learned counsel for the petitioner, having taken note of the



above said paragraph, submitted that the petitioners will be satisfied if the said benefit in terms of G.O (Ms) No.408 dated 25.08.2009 is extended to them and also further submitted that the petitioners would submit appropriate representations before the concerned respondents making a claim for the same. In the light of the statements made in Paragraph No.6 of the counter-affidavit filed by the Respondent No.4, it is obligatory on the Respondent No.4 to consider the claim of the petitioners in terms of the above paragraphs, provided the petitioners place before him the relevant record.

4. At this stage, it is also necessary to notice that the very same provision viz., Rule 11(4) of the Tamil Nadu Pension Rules has fallen for consideration before a learned Full Bench of this Court in W.A.No.158 of 2016 dated 03.12.2019, wherein the Full Bench laid down certain guidelines in Paragraph No.45 of the said Full Bench Judgement. The relevant paragraphs reads as under:-

“ 45. In the light of the above, we answer the reference as follows:-

i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of W.A.No.158 of 2016 etc., batch proviso to Rule 2 of



WEB COPY



W.P.Nos.3074 and 3075 of 2012

Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003

(ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.

(iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.

(iv) Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into regular service after 01.04.2003 will not be entitled to count half of W.A.No.158 of 2016 etc., batch their past service for the purpose of determination of qualifying service for pension.

(v) Those government servants who were



WEB COPY



W.P.Nos.3074 and 3075 of 2012

appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."

5. In the light of the above, impugned order dated 10.05.2011 passed in Na.Ka.No.493/A2/2011 in W.P.No.3075 of 2012 is set aside and both the petitioners are granted liberty to submit a representation before the respondents, claiming for counting of half of the services rendered by them as 'Adult Educational Officer' for the purpose of counting the qualifying service for grant of pension in terms of Rule 11(4) of the Tamil Nadu Pension Rules read with G.O (Ms) No.408 dated 25.08.2009 within a period of eight weeks from the date of receipt of a copy of this order and in case, if any such representation is made by the petitioners, the same shall be considered by the respondents as expeditiously as possible, at any rate within a period of four months from the date of submission of representation by the petitioners.

6. At this stage, it is brought to the notice of this Court by the learned Government Advocate that the petitioner in W.P.No.3075 of 2012 had



W.P.Nos.3074 and 3075 of 2012

already passed away on 26.12.2017. In view of the same, the legal representatives of the petitioner in W.P.No.3075 of 2012 are granted liberty to make representation as permitted herein above.

7. Accordingly, both the Writ Petitions are disposed of. No costs.

Connected Miscellaneous Petitions, if any shall stand closed.

09.08.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Secretary to Government of Tamil Nadu,
School Education Department, Fort St. George, Chennai – 600 009.
2. The Secretary to Government,
Finance (Pension) Department,
Fort St. George, Chennai – 600 009.
3. The Director of Elementary Education,
College Road, Chennai – 600 006.
4. The District Elementary Education Officer,
Dharmapuri District, Dharmapuri.
5. The Joint Director of Informal and Adult Education,
College Road, Chennai – 600 006.



WEB COPY



W.P.Nos.3074 and 3075 of 2012

MUMMINENI SUDHEER KUMAR, J.

skr

W.P.Nos.3074 and 3075 of 2012



WEB COPY



W.P.Nos.3074 and 3075 of 2012

09.08.2024