



W.P.No.12487 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. No.12487 of 2020

P.Durairasu

Vs.

Petitioner

- 1 The Principal Secretary to Government,
Department of School Education,
Fort St. George, Chennai- 600 009.
- 2 The Commissioner of Education,
D.P.I.Complex, College Road,
Chennai- 600 006.
- 3 The Director of School Education,
D.P.I. Complex, College Road,
Chennai- 600 006.
- 4 The Chief Educational Officer,
Perambalur.
- 5 The Principal Accountant General of Tamil Nadu,
No.361, Anna Salai,
Teynampet, Chennai- 600 018.
- 6 The Secretary and Correspondent,
Nehru Higher Secondary School,
Eraiur, Perambalur District.

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the Respondents to count half of the services rendered by the Petitioner in the post of part time vocational Instructor from 25.07.1983 to 05.07.1989 and in the government sanctioned post of P.G.T. (Commerce) under the self financed scheme from 20.09.1989 to 31.05.1994 as qualifying service for calculating the pension and other pensionary benefits under the Tamil Nadu Pension Rules 1978 and accordingly revise his pension and other Pensionary benefits.

For Petitioner : Mr.R.Prem Narayan

For Respondents : Mr.T.Rajendran
Additional Government Pleader

ORDER

The petitioner was working as a Head Master in Nehru Higher Secondary School, Eraiyur, Perambalur District and had retired from service on 31.03.2016 on account of attaining the age of superannuation. The grievance of the petitioner is that his past services rendered as a part time vocational instructor at Government Higher Secondary School, Thittakudi from 27.07.1983 to 09.07.1989 to be included along with his service rendered in the sanctioned post of PG Teacher - Commerce Assistant for the purpose of counting pensionable service.



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2. The petitioner has claimed half of his past service to be counted in tune with Section 11 (2) proviso to Tamil Nadu Pension Rules 1979. The fact that the petitioner was selected and appointed as PG Assistant - Commerce which is a Government Sanctioned post on 20.09.1989, is not denied. But the only objection raised by the 4th respondent is that the petitioner's erstwhile service as part time vocational instructor could not be added along with the pensionable service.

3. Mr.R.Prem Narayan, learned counsel for the petitioner attracted the attention of this Court to G.O.Ms.No.127, School Education (SE7(1)) Department, dated 12.07.2023 in support of his contention and submitted that 50% of the service rendered by the petitioner as vocational teachers on part time basis can also be included for computing pensionable service.

4. Mr.T.Rajendran, learned Additional Government Pleader appearing for the respondents submitted that G.O.Ms.No.127, School Education (SE7(1))Department, dated 12.07.2023 is applicable only to those teachers who had worked in the Government Schools / Government



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Aided Schools / Local Body Schools provided the Government sanctioned posts though their posts are part time in nature. So far as this petitioner is concerned, he was initially appointed on 25.07.1983 as part time vocational instructor not against the sanctioned post and he was ousted from service on 09.07.1989 by the School Authorities themselves. Thereafter, the petitioner has been appointed as against the Government sanctioned post of PG Assistant -Commerce only on 20.09.1989. Hence, the petitioner is not entitled to claim his half of the services rendered in the post of part time vocational Instructor to be added with the pensionable service.

5. There is no quarrel on the applicability of G.O.Ms.No.127, School Education (SE7(1))Department, dated 12.07.2023 and the same can be applicable to those part time teachers who had worked in the Government Schools / Government Aided Schools / Local Body Schools provided the Government sanctioned posts. The petitioner could not rely on the same since he was not appointed as part time Vocational Instructor in the Government Sanctioned post.



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6. It is seen from the records that the grant in aid was given by the Government with the condition that for the initial three years, the School Management has to bear the salary of the petitioner. Accordingly, the petitioner's salary was fixed. Even though the grant in aid was granted or in 01.06.1994, the petitioner was appointed in the said post on 20.09.1989. In these circumstances, at the best, the petitioner can only claim benefits from 20.09.1989 till 01.06.1994 and the same can be included while computing the pensionable service and not any time earlier.

7. With the above observation, this Writ Petition is partly allowed.

No costs.

03.01.2024

Index: Yes / No
Speaking order / Non-speaking order
vum

To:

- 1 The Principal Secretary to Government,
Department of School Education,
Fort St. George, Chennai- 600 009.
- 2 The Commissioner of Education,
D.P.I.Complex, College Road,
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R.N.MANJULA ,J.

vum

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