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W.P.No.2659 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.09.2024

PRONOUNCED ON : 10.12.2024

CORAM

THE HON'BLE MR. JUSTICE BATTU DEVANAND

W.P.No.2659 of 2018

1. Lakshmi
2. Loganathan
3. Mangala Gowri

... Petitioners

Vs.

1. Government of Tamilnadu,
Rep. by Secretary to Government,
School Education Department,
Fort St. George, Chennai 600 009.
2. The Director of School Education,
College Road, Chennai 600 006.
3. The Joint Director of School Education (Vocational),
College Road, Chennai 600 006.
4. The Chief Educational Officer,
Cuddalore District, Cuddalore.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to count 50% of service of the deceased government servant C.Ramalingam for a period from 23.11.1978 to 31.03.1990 as Single and Double Part Time Vocational



Instructor along with regular service as Vocational Instructor for a period from 01.04.1990 to 30.09.2005, as qualifying service for the purpose of pensionary benefits and to grant arrears of pension and other pensionary benefits to the petitioners.

For Petitioner : Mr.R.Saseetharan
For Respondents : M/s.P.Rajarajeswari, G.A.

ORDER

This Writ Petition has been filed for a Mandamus directing the respondents to count 50% of service of the deceased government servant C.Ramalingam for a period from 23.11.1978 to 31.03.1990 as Single and Double Part Time Vocational Instructor along with regular service as Vocational Instructor for a period from 01.04.1990 to 30.09.2005, as qualifying service for the purpose of pensionary benefits and to grant arrears of pension and other pensionary benefits to the petitioners.

2. It is the case of the petitioners that the first petitioner is the legally wedded wife of the deceased Ramalingam and the respondents 2 and 3 are his children. They are the legal heirs of the deceased Ramalingam, who worked as a Government Servant. The deceased Ramalingam was initially appointed as Single Part Time Vocational Instructor in Commerce at



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4. It is the further case of the petitioners that the deceased rendered service for 26 years, 10 months and 7 days i.e. from 23.11.1978 to 30.09.2005. In the said spell, the period rendered after regularisation comes to 15 years and 6 months i.e. from 01.04.1990 to 30.09.2005 and the service rendered in consolidated pay comes to 11 years & 4 months & 7 days i.e. from 23.11.1978 to 31.03.1990. The services rendered in the regular time scale of pay i.e. from 01.04.1990 to 30.09.2005 alone has been taken as qualifying service, the services of 11 years, 4 months & 7 days in consolidated pay for a period from 23.11.1978 to 31.03.1990 has not been taken as qualifying service for pensionary benefits, which is arbitrary and discriminatory.

5. The Division Bench of this Court in W.A.No.1702 of 2010, dated 29.09.2010 held that the Vocational Instructors like the deceased Government Servant are entitled for counting 50% of part time service towards the pensionary benefits. In compliance of the said order, the Government of Tamil Nadu passed G.O.Ms.No.130 dated 18.07.2013 and G.O.Ms.No.134 dated 22.07.2013, which provides for counting of 50% of service in part time vocational instructor post as qualifying service towards



the pensionary benefits, along with the regular service. In the said Government Order, it is stated that since the employees covered under above said Government Orders are Part Time Vocational Instructors, one of the condition in G.O.Ms.No.408 dated 25.08.2009 is relaxed i.e., the condition which says that employment should be for whole time. In this case, the deceased government servant's double part time vocational instructor service involved for full day i.e. in forenoon and afternoon. Hence, relaxation is not necessary and he is entitled to count 50% of part time service towards pensionary benefits as qualifying service.

6. The Division Bench of this Court in W.A.No.359 of 2015 has held that double part time vocational instructor's post is a full time employment and the double part time vocational instructors are entitled to count 50% of service along with the regular service. A Division Bench of Madurai Bench of Madras High Court in W.A.(MD).No.392 of 2017 has held that the single and double part time vocational instructor has to be treated equally and that the post of single part time is a full time employment and the single and double part time vocational instructors are entitled to count 50% of service rendered on consolidated pay along with the regular service for the purpose



of pensionary benefits. Hence, the present Writ Petition.

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7. The fourth respondent filed a counter affidavit, wherein it is stated that the deceased was appointed only as a part-time Vocational Instructor on a honorarium pay system and not a full time teacher on consolidated pay system. The petitioner is not entitled for counting 50% of her husband's services between 23.11.1978 to 31.03.1990 as qualifying service for the pensionary benefits since the deceased was working as part-time Vocational teacher just for two hours per day and not working as full time employee on consolidated pay and further the petitioner's husband has not made any claim for counting 50% of his services rendered as part time vocational instructor.

8. It is further stated that the Government has issued G.O.Ms.No.127 School Education Department dated 12.07.2023 granting pensionary benefits by taking into account of 50% service of the part time services for those whose services were regularised as Vocational Instructor before 01.04.2003 and retired on superannuation. But the petitioner's husband retired on superannuation on 30.09.2005 and did not get Court orders in his



favour as per the above said G.O. Further the petitioner has not sought for counting his 50% service as part time unit for pensionary benefits till his retirement on 30.09.2005 nor till his death on 16.10.2013. This Writ Petition is filed after a lapse of 13 years from the date of his retirement and after 5 years of the death of deceased Government servant and is liable to be dismissed on the ground of delay.

9. It is further submitted that the deceased Vocational Instructor was retired on superannuation on attaining the age of retirement on 30.09.2005 and was getting pensionary benefits w.e.f. 01.10.2005. In the instant case, the first petitioner was also getting the family pension after the death of her husband and she also expired on 31.07.2021. Thereafter, the petitioners 2 and 3 are not entitled for pensionary benefits of the deceased father C.Ramalingam.

10. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

11. Admittedly, the deceased Ramalingam was appointed as Single Part Time Vocational Instructor on 23.11.1978. Thereafter, he was



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appointed as Double Part Time Vocational Instructor on 25.06.1979 on consolidated pay. Subsequently, he was observed as Grade I Vocational Instructor 23.09.1994 and his services were regularised with effect from 01.04.1990. He retired from service on attaining the age of superannuation on 30th September 2005. During his lifetime, he got pensionary benefits from the date of his retirement. After his death, his wife, the first petitioner herein was also granted pensionary benefits. The petitioners 2 and 3 are the son and daughter of the deceased Ramalingam.

12. The issue involved in this Writ Petition is that as to whether the deceased Ramalingam is entitled to the benefit of 50% of services rendered as Single Part Time Vocational Instructor and Double Part Time Vocational Instructor for the purpose of calculating qualifying service for pensionary benefits or not.

13. In fact, the issue involved in this Writ Petition was already dealt by this Court on several occasions and rendered judgments in favour of the employees and those decisions had attained finality. The Division Bench of this Court by its judgment dated 16.03.2015 in W.A.No.359 of 2015 made a



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detailed analysis of the relevant Government Orders and arrived at a conclusion that the Double Part Time Vocational Instructors are entitled for 50% of the services rendered by them and the same shall be counted for the purpose of computing pension and other retirement benefits. In respect of Single Part Time Vocational Instructors, a Division Bench of this Court by its judgment dated 21.04.2017 in WA.(MD).No.392 of 2017 held that Single Part Time Vocational Instructors should be treated equally with the double part time teachers and all benefits that were given to the Double Part Time Vocational Instructors should be extended to the Single Part Time Vocational Instructors as well. The said decision has attained finality.

14. Having taken into consideration of the relevant facts, Government Orders and judgments of this Court, a Division Bench of this Court by its judgment dated 06.04.2018 in WA.Nos.882 of 2017 and batch held that Part Time Vocational Instructors (either Single or Double Part Time Vocational Instructors) are entitled for counting 50% of services rendered by them for the purpose computing pension and other retirement benefits. The said judgment has also attained finality.

15. In the present case also, the petitioner worked as Single Part Time



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Vocational Instructor and Double Part Time Vocational Instructor from 23.11.1978 to 31.03.1990 and thereafter, he was observed as Grade I Vocational Instructor with effect from 23rd September 1994 and his services were regularised with effect from 01.04.1990. Therefore, this Court taking into consideration of the orders issued by the Government in favour of the similarly situated persons, wherein 50% of the part time service rendered by them was counted with regular service for the purpose of pensionary benefits and also by following the judgments rendered by several Division Benches on this aspect as stated supra, holds that the respondents have to count 50% of the part time services rendered by the deceased Ramalingam with the regular service for the purpose of pensionary benefits.

16. In view of the fact that the petitioners 2 and 3 are children of the deceased employee and the wife of the deceased employee also expired, the respondents have to pay the arrears of pension to them by counting 50% of the services rendered by the deceased Ramalingam as Single part time and Double Part Time Vocational Instructor.

17. With the aforesaid observations, this Writ Petition is allowed with



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the following directions:

The respondents are directed to count 50% of the services of the deceased Government servant Ramalingam for a period from 23.11.1978 to 31.03.1990 as Single and Double Part Time Vocational Instructor along with regular service as Vocational Instructor from 01.04.1990 to 30.09.2005 as qualifying service and fix pensionary benefits and grant arrears of pension and other pensionary benefits to the petitioners 2 and 3 within a period of eight weeks from the date of receipt of a copy of this order.

No costs.

10.12.2024

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
pvs



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To

1. The Secretary to Government,
Government of Tamilnadu,
School Education Department,
Fort St. George, Chennai 600 009.
2. The Director of School Education,
College Road, Chennai 600 006.
3. The Joint Director of School Education (Vocational),
College Road, Chennai 600 006.
4. The Chief Educational Officer,
Cuddalore District, Cuddalore.



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BATTU DEVANAND.J.,
pvs

Pre-delivery order in

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