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W.P.No.26176 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.26176 of 2021

P.Gowraraju

... Petitioner

/vs/

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of School Education,
Fort St. George, Chennai – 600 009.

2. The Director of School Education,
D.P.I.Campus, College Road,
Chennai – 600 006.

3. The Chief Education Officer,
Salem – 1, Salem District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct the respondents to pass final orders on the long pending representation dated 05.12.20214 without further delay in the light of the judgment made in W.P.No.39177 of 2002 dated 16.04.2009 and refix his pension by including 50% of the service rendered by him as part time Vocational Teacher for the purpose of pension.



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For Petitioners ... Mrs.Rukmani Venugopalan
for Mr.S.Raveekumar

For Respondents ... Mr.P.Gurunathan
Additional Govt. Pleader for R1 to R3

ORDER

The petitioner has filed this writ petition seeking a writ of mandamus to direct the respondents to pass final orders on his representation dated 05.12.20214 in the light of the judgment made in W.P.No.39177 of 2002 dated 16.04.2009 and re-fix his pension by including 50% of the service rendered by him as part time Vocational Teacher for the purpose of pension.

2. Mrs.Rukmani Venugopalan, the learned counsel for the petitioner, submitted that the petitioner has been appointed as part time Vocational Teacher on 28.06.1979 and he has completed 7 years and two months of service and thereafter he was appointed as regular Government Servant in Co-operative Society and rendered 20 years and 10 months of service; the petitioner is entitled to get an additional 50% of his services rendered with consolidated pay as Vocational Teacher for the purpose of pension in pursuant to G.O.Ms.No.406 Finance (Pension) dated 25.08.2009 and in view of the Full Bench judgment held in W.A.No.158/2016 & batch dated



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03.12.2019. The learned counsel for the petitioner further submitted that similarly placed person have filed a writ petition in W.P.No.39177/2002 for seeking similar relief and that was granted to him in pursuant to the order passed in the said writ petition on 16.04.2009.

3. Mr.P.Gurunathan, the learned Additional Government Pleader, submitted that the entitlement for inclusion of 50% of the past services will be available only to those persons who have rendered their services on full time basis and not on part time basis.

4. The position of law on this point has been well settled in pursuant to the full bench judgment of this Court in W.A.No.158/2016 & batch dated 03.12.2019 and in which the judgment rendered in W.A.(MD) No.392 of 2015, etc. batch was referred which reads as under:

“ 10. The writ court further observed that in the light of the decision of the Honourable First Bench, the Rule itself stands impliedly overruled. That apart, it was held that if the benefit is not granted, it would amount to discriminating the similarly placed persons. Further, the writ court noted that the Government has chosen to extend certain benefits in respect of part time workers as found in G.O.Ms.No.39, 13.06.2011 and



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therefore the benefit cannot be denied to part time vocational instructors by stating that the said Government Order is applicable to panchayat clearks and not to vocational instructors.”

5. Further, the said Full Bench has held that if a Government employee / servant was not absorbed between the aforesaid cut off date, he / she will not be entitled to include half of the service rendered under the State Government in (i) non-provincialised services; (ii) Consolidated pay; (iii) honorarium; or (iv) daily wage basis into his / her services even though such person may be entitled to Government Pension under the Rule if he / she was appointed in a cadre post on or before 01.04.2003 but was not absorbed after the said date. Hence the Full Bench has rendered the following reference:

“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 regularized before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.”

5. Since the petitioner falls under above reference, he is entitled to the benefit as claimed by him. Several judgment have been rendered in



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various writ petitions filed by similarly placed persons by relying on the Full Bench Judgment of this Court in W.A.No.158/2016 & batch dated 03.12.2019.

6. Accordingly, this Writ Petition is disposed and the respondents are directed to consider the case of the petitioner and pass orders in the light of the earlier judicial pronouncements, within a period of six weeks from the date of receipt of a copy of this order. No costs.

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Index: Yes
Speaking order
Neutral Citation : Yes
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R.N.MANJULA ,J.

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To:

1. The Secretary to Government,
State of Tamil Nadu,
Department of School Education,
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