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W.P.No.26003 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.12.2024

CORAM

THE HON'BLE MR. JUSTICE BATTU DEVANAND

W.P.No.26003 of 2018

I.S.Rafeeqe

... Petitioner

Vs.

1. Government of Tamilnadu,
Rep. by its Secretary,
School Education Department,
Fort St. George,
Chennai 600 009.
2. The Director of School Education,
Cehnnai 600 006.
3. The Joint Director of School Education (Vocational),
Chennai 600 006.
4. The Chief Educational Officer,
Tiruvannamalai District.
5. The Head Master,
Govt. Boys Hr. Sec. School,
Uttukottai,
Thiruvannamalai District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to take into account 50% of the service rendered by the petitioner from initial appointment till regularization (i.e 04.06.1982 to 31.03.1990) for the purpose of retirement benefits, including pension.

For Petitioner : Mr.R.Saravanakumar

For Respondents : Mr.A.M.Ayyadurai, G.A.

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus directing the respondents to take into account 50% of the service rendered by the petitioner from his initial appointment till regularization (i.e 04.06.1982 to 31.03.1990) for the purpose of retirement benefits, including pension.

2. The petitioner was initially appointed on 04.06.1982 as double part time vocational teacher and continued in the said post till 31.03.1990. Subsequently, he was absorbed as full time vocational instructor and retired from service on 30.11.2014.



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3. It is the case of the petitioner that the nature of performance of duties and responsibility of vocational teacher involves whole time employment only. The post of vocational teachers, though initially termed as part-time, required whole time service only, as they were performing all the duties and responsibilities like conducting academic classes, practicals, supervision of Government examinations, maintenance of records and valuation, election duty etc, as any other category of teachers. He was paid a meagre sum of Rs.300/-, but they extracted work from him like any other regular teachers. After prolonged correspondence, the petitioner was brought on time scale of pay vide G.O.Ms.No.712 dated 28.05.1990.

4. The grievance of the petitioner is that though he rendered continuous service from initial appointment in the sanctioned post with necessary qualification till regularization, his service for the period from 04.06.1982 to 31.03.1990 as double part time vocational teacher has not been taken as qualifying service for pensionary benefits. The services rendered in the regular time scale of pay alone has been taken as qualifying service, which is arbitrary and discriminatory.



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5. It is further stated that the issue was already considered by a Division Bench of this Court in W.A.No.1702 of 2010, dated 29.09.2010 and held that the Vocational Instructor like the petitioner is 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 the 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 petitioner is a double part time vocational instructor, which involved full day service. Hence, relaxation is not necessary and he is entitled to count 50% of part time service towards pensionary benefits as qualifying service.

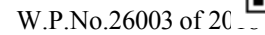
6. The Division Bench of this Court in W.A.No.359 of 2015 has held that double part time vocational instructor's post is a full time employment



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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.

7. The learned Government Advocate appearing for the respondents submitted that the petitioner was appointed only as a part-time Vocational Instructor on a honorarium pay system and not a full time teacher on consolidated pay system. Since the petitioner 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 has not made any claim for counting 50% of his services rendered as part time vocational instructor, he is not entitled for counting 50% of his services between 04.06.1982 and 31.03.1990 as qualifying service for the pensionary benefits.



9. Admittedly, the petitioner was initially appointed on 04.06.1982 as double part time vocational teacher and continued as double part time vocational teacher till 31.03.1990. Thereafter, he was absorbed as full time vocational instructor and he retired from service on attaining the age of superannuation on 30.11.2014. After retirement, the petitioner is getting his pensionary benefits.

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

11. 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



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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 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 decisions have attained finality.

12. 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 of computing pension and other retirement benefits. The said judgment has also attained finality.



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13. In the present case also, the petitioner worked as Double Part Time Vocational Instructor from 04.06.1982 to 31.03.1990 and thereafter, he was absorbed as full time Vocational Instructor. 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 petitioner with the regular service for the purpose of pensionary benefits.

14. Therefore, the respondents have to pay the arrears of pension to the petitioner by counting 50% of the services rendered by him as Double Part Time Vocational Instructor.

15. With the aforesaid observations, this Writ Petition is allowed with the following directions:

The respondents are directed to count 50% of the services of the petitioner for a period from 04.06.1982 to



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31.03.1990 as Double Part Time Vocational Instructor along with regular service as full time Vocational Instructor from 01.04.1990 to 30.11.2014 as qualifying service and fix pensionary benefits and grant arrears of pension and other pensionary benefits to the petitioner 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,
Government of Tamilnadu,
School Education Department,
Fort St. George,
Chennai 600 009.
2. The Director of School Education,
Cehnnai 600 006.
3. The Joint Director of School Education (Vocational),
Chennai 600 006.
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