



Rev.Appl.No.5 of 2019

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2024

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

Rev.Appl.No.5 of 2019
against W.A.No.274 of 2014

1. A.G.Rajasekaran
2. K.Sathyabama
3. S.Johnson Jesudas
4. M.Ganesan
5. C.Sampath
6. V.Parimala Devi
7. K.R.Nalini
8. D.Ravichandran
9. N.Padmavathi
10. S.Ramalingam
11. V.Yesudoss
12. A.S.Dhanalakshmi
13. A.Velayutham

.. Petitioners

Vs.

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

Page 1 of 8



Rev.Appl.No.5 of 2019

WEB COPY

3. The Director of School Education
DPI Compound, College Road
Chennai – 600 009.
4. The Joint Director (Vocational)
Directorate of School Education
DPI Compound, College Road
Chennai – 600 006.

.. Respondents

Prayer: Petition filed under Order 47 Rule 1 r/w Section 114 of the Code of Civil Procedure, 1908, against the order dated 11.10.2018 in W.A.No.2248 of 2018.

For the Petitioners : Mr.R.Venkatavaradhan
for Ms.C.Uma
For the Respondents : Mr.U.Ravichandran
Special Government Pleader

ORDER

(Delivered by the Hon'ble Mr. Justice S.M.SUBRAMANIAM)

The learned counsel appearing for the petitioners, *Mr.R.Venkatavaradhan*, would contend that the benefit of counting 50% of the service for part-time Vocational Instructors were already extended to the other employees and therefore, the review petitioners cannot be discriminated.

2. In this regard, the learned counsel relied upon two orders of this Court; one by the learned Single Judge of this Court in



Rev.Appl.No.5 of 2019

WEB COPY

W.P.No.18252 of 2018 dated 18.07.2018 and the other by the Division Bench of this Court in W.A.No.2248 of 2018 dated 11.10.2018. Relying upon the above two orders, it is contended that the review petitioners are also entitled to get the benefit of counting the 50% of the service rendered in the post of part-time Vocational Instructors.

3. Learned counsel for the petitioner reiterated that the Apex Court, in the case of **State of Uttar Pradesh and Ors. vs. Arvind Kumar Srivastava and Ors.**, has held as follows:

"22.1. The normal rule is that when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently."



Rev.Appl.No.5 of 2019

WEB COPY

4. As far as the afore cited judgment is concerned, the normal Rule, as contemplated by the Apex Court, is to be followed, provided, the relief granted by the Court is in accordance with the Statute and/or the Rules, which all are to be applied. If any order is running counter to the Service Rules where certain relief granted on discretion as a special case, the same neednot be followed as a precedent, nor such order could be relied on for the purpose of granting relief in identical cases.

5. In the present case, admittedly, the review petitioners were employed as part-time Vocational Instructors. The claim of the petitioners is that 50% of the service rendered in the post of part-time Vocational Instructors is to be reckoned for the purpose of grant of pension and other pensionary benefits. Pertinently, Rule 11(2) and 11 (2) (i) of the Tamil Nadu Pension Rules, 1978, reads as under:

Page 4 of 8



Rev.Appl.No.5 of 2019

WEB COPY

"2. Half of the service paid from contingencies shall be allowed to count towards qualifying service for pension along with regular service subject to the following conditions:-

(i) Service paid from contingencies shall be in a job involving whole time employment and not part-time for a portion of the day."

6. When the Tamil Nadu Pension Rules, 1978, in an unequivocal term, stipulates that half of the service shall be allowed to be counted towards the qualifying service for pension in a job involving whole time employment and not part-time, the petitioners, who held the posts of part-time Vocational Instructors, are not eligible to seek counting of 50% of the service based on Rule 11 (2) of the Tamil Nadu Pension Rules, 1978. Pension is not a bounty, but wages for the deferred portion of the service. Therefore, pension is to be granted in accordance with the Pension Rules and based on the terms and conditions stipulated.

7. Certain orders passed without considering the Rule position cannot be followed as a precedent. In the present case, two orders



Rev.Appl.No.5 of 2019

WEB COPY

were passed; one by a Single Judge of this Court and the other by the Division Bench of this Court. There is no reference about Rule 11 (2) of the Tamil Nadu Pension Rules, 1978, nor the Rule position has been considered, thus, the said orders cannot be cited as precedents for seeking the relief by way of a review application.

8. More so, the grounds raised in the present review, on merits, cannot be entertained. The petitioners have not established any error apparent on record, warranting exercise of the review jurisdiction. As such, the review petition stands dismissed. There shall be no order as to costs.

(S.M.S., J.)

(C.K., J.)

29.07.2024

Index : Yes/No

Neutral Citation : Yes/No

drm



Rev.Appl.No.5 of 2019

WEB COPY

To:

1. The Secretary to Government
The State of Tamil Nadu
Finance Department, Fort St. George
Chennai – 600 009.
2. The Secretary to Government
The State of Tamil Nadu
School Education Department
Fort St. George, Chennai – 600 009.
3. The Director of School Education
DPI Compound, College Road
Chennai – 600 009.
4. The Joint Director (Vocational)
Directorate of School Education
DPI Compound, College Road
Chennai – 600 006.



WEB COPY



Rev.Appl.No.5 of 2019

S.M.SUBRAMANIAM, J.

AND

C.KUMARAPPAN, J.

(drm)

Rev.Appl.No.5 of 2019

29.07.2024