



W.A(MD)No.1119 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2024

CORAM :

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.1119 of 2024
and
CMP(MD)No.8517 of 2024**

1.The State of Tamil Nadu rep. by its Secretary,
School Education Department,
Fort St.George, Chennai – 09.

2.The Director of School Education,
College Road, Chennai – 06.

3.The District Educational Officer,
Dindigul District.

4.The Chief Engineer (Agril. Engg.),
Agricultural Engg Dept.,
487, Anna Salai Nandanam,
Chennai – 600 035.

5.The Executive Engineer,
Agricultural Engg Department,
Trichy – 01.

... Appellants

vs.

1. N.Krishnamoorthi

2. The Secretary,
Then Nadars' Sundara Visalakshi Vidhyasala
Higher Secondary School,



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Pattiveeranpatti, Kodaikanal Road, Rly., Stn.,
Dindigul District.

... Respondents

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Prayer : Appeal filed under Clause 15 of the Letters Patent, against the order dated 12.04.2023 made in W.P(MD)No.6941 of 2023.

For Appellants : Mr.S.Shaji Bino, Special Government Pleader
For R1 : Mr.R.Saravanan

JUDGMENT

(Judgment of the Court was made by **R.SURESH KUMAR, J.**)

This appeal has been directed against the order passed by the Writ Court dated 12.04.2023 made in W.P(MD)No.6941 of 2023.

2. That, the 1st respondent was the writ petitioner who joined as a part time Vocational Instructor on 28.06.1979 in the Education Department and he has been working in that capacity on regular basis. However, since he had been selected as Typist through the Tamil Nadu Public Service Commission and allotted to the Agricultural Department, he had been relieved from the Education Department on 28.01.1987 and joined the Agricultural Department on 29.01.1987. In that department, he had worked till his superannuation and retired from service on 30.06.2013.



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3. After his retirement, the 1st respondent/writ petitioner had approached the appellants department to calculate at least 50% service rendered by him between 28.06.1979 and 28.01.1987 as a part time Vocational Instructor for the purpose of calculating the full pensionable service along with the pensionable service he has rendered from 1987 to 2013. That request since has been rejected, as against which, the 1st respondent/writ petitioner filed the said writ petition.

4. Learned Additional Government Pleader who appeared in the Writ Court on behalf of the appellants department who stood as respondents in the writ petition, had relied upon a decision of the Division Bench of this Court in **W.A.No.882 of 2017 etc batch, dated 06.04.2018**, in the matter of **The Government of Tamil Nadu & Others Vs. The Chief Educational Officer & Others**, where, a cut-off date had been given, and based on such cut-off date alone, it would be considered as to whether a particular employee would be entitled to seek for the benefit of calculating the 50% of the past service rendered as a part time Vocational Instructor.

5. However, the learned Judge having considered various other



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judgments of co-equal Benches, that is, the Division Benches of this Court, has come to an ultimate conclusion that, the order of rejection passed by the appellants department was infirm and therefore, having set aside the same, the learned Judge has allowed the said writ petition, against which, the present appeal has been filed.

6. Mr.S.Shaji Bino, learned Special Government Pleader appearing for the appellants having relied upon G.O.Ms.No.194, School Education Department, dated 12.09.2018, has made submissions stating that, the benefit that has been indicated in G.O.Ms.No.194 dated 12.09.2018 would be applicable only to those who continued in the Education Department itself. After rendering service as a part time Vocational Instructor in the Education Department, the 1st respondent/writ petitioner joined in the Agricultural Department with effect from 29.01.1987, where, he worked till 30.06.2013 and superannuated and retired from service. Therefore, that kind of people would not be entitled to get the benefit arising out of G.O.Ms.No.194 dated 12.09.2018, that is the contention of the learned Special Government Pleader.

7. We have considered the submissions made by Mr.S.Shaji Bino, learned Special Government Pleader appearing for the appellants and Mr.R.Saravanan, learned counsel appearing for the 1st respondent/writ



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petitioner.

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8. Insofar as the issue that has been raised in the present appeal is concerned, that is no more *res integra*, as the issue had already come up at least before two or three Division Benches, where, as has been rightly pointed out by the learned Judge in paragraph 6 of the impugned order, it has been given a quietus.

9. In fact, in the year 2020, one of us (**R.SURESH KUMAR, J.**) had an occasion to consider the similar issue in a batch of writ petitions in **W.P(MD)No.9721 of 2020 etc batch**, in the matter of **I.Sundaralingam vs. State of Tamil Nadu and three others**, where, the very same plea was raised on behalf of the department that, the Division Bench judgment in **W.A.No.882 of 2017 etc batch, dated 06.04.2018**, in the matter of **The Government of Tamil Nadu & Others Vs. The Chief Educational Officer & Others**, would stand in the way in extending the benefit of calculating the 50% of the past service. The said judgment also having been considered and other judgments of the Division Benches as well as the Full Bench judgment of another High Court, having been considered, one of us (**R.SURESH KUMAR. J.**), had an occasion to dispose the said writ petitions by order dated 01.09.2020, extending



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the said benefit to all those people who had filed writ petitions even after the cut-off date as has been fixed by the Division Bench in W.A.No.882 of 2017 etc batch, dated 06.04.2018.

10. As against the said order passed in W.P(MD)No.9721 of 2020 etc batch, dated 01.09.2020, appeals were filed by the Education Department before the Division Bench in **W.A(MD)No.347 of 2020 etc batch** and those writ appeals were also dismissed, confirming the common order passed by the Writ Court, as against which, once again, review applications in **Rev.Aplc(MD)No.39 of 2022 etc batch**, were filed which were also considered and dismissed by a Division Bench of this Court by order **dated 20.04.2023** in the matter of **State of Tamil Nadu and three others vs. M.Subbian and another**. Therefore, the issue has been given a complete quietus by a series of judgments of this Court, where, such kind of benefit of calculating 50% of the past service rendered by the part time Vocational Instructors prior to 01.04.2003, provided, had they been brought under regular time scale of pay, such benefit cannot be restricted to those who have come before this Court and filed writ petition on or before the cut-off date as has been fixed by the Division Bench in W.A.No.882 of 2017 etc batch dated 06.04.2018.



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11. Therefore, absolutely, there has been no fault on the part of the Writ Court in allowing the said writ petition through the impugned order. Hence, we do not find any reasons to interfere with the same.

12. Resultantly, the Writ Appeal fails. Hence, it is liable to be dismissed. Accordingly, it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.)

(G.A.M., J.)

09.07.2024

Index : Yes / No
Neutral Citation : Yes / No
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