



WP(MD). No.6925 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 12/04/2024

CORAM

The Hon`ble MS.Justice R.N.MANJULA

**WP(MD). No.6925 of 2024
and WMP (MD)No.6446 of 2024**

Venkataraman.R

... Petitioner

Vs

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

2. The Director of Elementary Education,
DPI Compound, College Road,
Chennai - 600 006..

3. The District Educational Officer,
(Elementary Education),
O/o. the District Educational Officer
(Elementary Education), Pattukottai,
Thanjavur District..

4. The Block Educational Officer,
O/o. the Block Educational Officer,
Madhukur, Thanjavur District..

5. The Principal Accountant General,
Office of the Accountant General
(A and E) Tamil Nadu, No.361, Anna Salai,
Teynampet, Chennai - 600 018..

... Respondents



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PRAYER :-Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to count 50 percent of the services rendered by the petitioner as part time vocational teacher (From 26.12.1988 to 29.04.1997) for pensionary benefits and direct the respondents to refix the pension and pay the revised pension.

For Petitioner : Mr.R.Govindaraj,
For Respondents : Mr.M.Siddharthan for R1 to R4
Additional Government Pleader
Mr.S.Mahalakshmi for R5

ORDER

This writ petition has been filed to direct the respondents to count 50% of the services rendered by the petitioner as part time Vocational Teacher (From 26.12.1988 to 29.04.1997) for pensionary benefits and direct the respondents to refix the pension and pay the revised pension.

2.Heard the learned counsel for the petitioner, learned Additional Government Pleader for the respondents 1 to 4 and the learned counsel for the respondent No.5.

3.The petitioner has submitted that the petitioner's part time



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services as vocational teacher were not taken into account for the pensionary benefits. A representation in this regard was kept pending without any decision.

4. The learned counsel for the petitioner would submit that the petitioner's was appointed as part time vocational Teacher on 26.12.1988. He was made full time worker on 28.04.1997. He retired on 31.05.2018. Thus, he has put in service as part time vocational instructor for 8 years, 4 months and 5 days and full time vocational instructor for 21 years, 1 month and 1 day. The contention of the petitioner is that his part time service was not taken into account for pensionary benefits. Therefore, the petitioner made a representation dated 24.06.2023 to the respondents requesting them to take into account of the services rendered by him as part time vocational teacher for pensionary benefits. Since no action was taken by the respondents, the petitioner has come before this Court by way of filing this Writ Petition.

5. The issue raised in this Writ Petition has been elaborately discussed and covered in the earlier judgment passed in a Writ Petition in



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W.P.(MD).No.28011 of 2022 dated 13.12.2022 (G.Subramanian Vs.

The Principal Secretary to Government of Tamil Nadu, Department of School Education, Fort St. George, Chennai), wherein the order has been analysed as under:

*“3.The learned counsel appearing for the petitioner would submit that the issue that arises in the present Writ Petition, is no longer res integra and the same was decided by the Hon'ble Full Bench of this Court in the case of **Government of Tamil Nadu, Represented by its Secretary to Government and Others Vs. R.kaliyamoorthy** reported in **2019 (6) CTC 705.***

As per the decision of the Hon'ble Full Bench, the service rendered by the Government employees in non-provincialised services or being consolidated pay or on daily wages requires to be counted for the purpose of pensionary benefits, to the extent of 50% of such services. The relevant portion of the Hon'ble Full Bench reads thus:

"45.In the light of the above, we answer the reference as follows:-

i) Those, who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of Proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259, dated 06.08.2003.



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(ii) *Those Government servants/Employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10(a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.*

(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 regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.*

(iv) *Those Government servants, who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into Regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for Pension.*

(v) *Those Government servants, who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in Regular service*



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after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."

....

5.The facts in the present case are not in dispute. Admittedly, the petitioner's wife initially entered into a service on 16.12.1988 and subsequently, her services were regularised on 05.10.1996 and thereafter, she died on 13.06.2014. Hence, the petitioner's wife is fully entitled for calculation of 50% as a Part Time Pre-Vocational Instructor for pensionary benefits. However, without taking into account the judgment of the Hon'ble Full Bench, the second respondent mechanically passed the impugned order.

6.Hence, the impugned order passed by the second respondent vide proceedings in No.P16/3/11628070/ADK, dated 14.07.2021 is set aside and the matter is remanded back to the second respondent, who shall pass appropriate orders in terms of the decision of the Hon'ble Full Bench (supra)."

6. The petitioner's services were regularised through the proceedings of the third respondent in Na.Ka.No.Mu.Mu.00076/A2/2011 dated 28.04.1997. Since the petitioner's services have been regularised



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before the cut off date of 01.04.2003, the petitioner would get the benefit of counting half of his past services to be computed along with his regular service for his pensionary benefits. The petitioner is said to have put in 8 years four months and 5 days as part time vocational teacher, hence, 50% of that service has to be calculated and added into his regular service for the purpose of pensionary benefits. Since the petitioner's representation in this regard has not been considered by the respondents so far, I feel that appropriate direction would be given to the respondents.

7. In the result, the writ petition is **allowed** and the respondents are directed to consider the representation of the petitioner dated 24.06.2023 positively in compliance of the earlier judicial pronouncements of this Court and pass orders within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently connected Miscellaneous Petition is closed.

12.04.2024

NCC : Yes/No
Index : Yes/No
RR



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TO

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R.N.MANJULA,J

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**ORDER
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