



W.P.(MD).No.17783 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : **31.07.2024**

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.17783 of 2024

T.Kanagarajan

... Petitioner

Vs.

1.The Director of Elementary Education,
Chennai - 06.

2.The Account General (A and E),
361, Anna Salai,
Tenampettai,
Chennai.

3.The District Educational Officer (Elementary),
Theni,
Theni District.

4.The Block Educational Officer,
Theni,
Theni District.

5.The Secretary,
Sri.N.V.P.Middle School,
Poomalaigundu,
Theni Taluk,
Theni District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to count 50% of the part time service period from 12.06.1985 to 20.09.1996 ie., 05 years 07 months 20 days for pension benefits and confer all the consequential benefits.

For Petitioner : Mr.V.Panneer Selvam
For Respondents : Mr.M.Siddharthan (R1, R3& R4)
Additional Government Pleader
Mr.P.Gunasekaran (R2)

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, seeking for a direction to the respondents to count 50% of the part time service period from 12.06.1985 to 20.09.1996 ie., 11 years 03 months 9 days for pension benefits and confer all the consequential benefits.

2. Heard Mr.V.Panneer Selvam, learned counsel for the petitioner, Mr.M.Siddharthan, learned Additional Government Pleader for the respondents 1, 3 and 4 and Mr.P.Gunasekaran, learned counsel for the second respondent.



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3. Mr.V.Panneer Selvam, learned counsel for the petitioner submitted that the petitioner was appointed as part time vocational instructor on 12.09.1985 on permanent basis in fifth respondent school. He was made full time worker on 05.10.1996. He retired on 29.02.2024. Thus, he has put in service as part time vocational instructor for 11 years 03 months 9 days and full time vocational instructor for 27 years, 04 months and 25 days. The contention of the petitioner is that his part time service was not taken into account for pensionary benefits. Therefore, the petitioner made representations to the respondents 1 to 4 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.

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



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*“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.*
- (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*



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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 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



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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).”

5. In the light of the judgment stated supra, the petitioner's service has to be included as prayed for. Hence, the Writ Petition is **allowed** and the respondents are directed to count 50% of the part time service rendered by the petitioner from 12.06.1985 to 20.09.1996 for pensionary benefits. The revised pension proposals shall be submitted by the second respondent within a period of six weeks from the date of receipt of copy of this order. It shall be processed by the official respondents and appropriate orders shall be passed in favour of the petitioner within a period of eight weeks thereafter and the consequential monetary benefits shall also be disbursed to the petitioner.

6. Since the petitioner has come to this Court only in the year

2024, the question of paying interest will not arise.



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7. However, it is made clear that if the time line fixed by this Court is not adhered to by the respondents, the petitioner will be entitled to interest from the date of his entitlement. No costs.

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NCC:yes/no
Index:yes/no
Internet:yes/no
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R.N.MANJULA, J.

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