



W.P.(MD).No.21919 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.21919 of 2022

K.Muniyandi

...Petitioner

Vs.

1.The Government of Tamilnadu,
Rep. by the Secretary to Government,
School Education Department,
Fort.St.George,
Chennai-600 009.

2.The Director,
Adi Dravidar and Tribal
Welfare Department,
Chepakkam, Chennai-05.

3.The District Adi Dravidar &
Tribal Welfare Officer,
Collector Office, Dindigul District.

4.The Special Tahsildar,
Adi Dravidar Welfare,
Nilakkottai, Dindigul District.

... Respondents



W.P.(MD).No.21919 of 2022

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 pass orders for counting 50% of service rendered by the petitioner as Part Time Vocational Instructor for Pensionable purpose in the light of the proceedings of the 3rd respondent in Na.Ka.No.27292/2006/H6 dated 01.09.2014 by considering the petitioner's representation dated 28.09.2021.

For Petitioner : Mr.R.Maheswaran
For Respondents : Mr.C.Baskaran,
Government Advocate

ORDER

The present writ petition has been filed seeking direction to the respondents to pass orders for counting 50% of service rendered by the petitioner as Part Time Vocational Instructor for Pensionable purpose in the light of the proceedings of the 3rd respondent dated 01.09.2014 by considering the petitioner's representation dated 28.09.2021.

2. The brief facts which are necessary for the disposal of this Writ Petition is as follows:-



W.P.(MD).No.21919 of 2022

WEB COPY

(i) The petitioner was appointed as a Part Time Vocational Tribal Welfare Residential School, Kattaikambu in Dindigul District with effect from 06.01.1965. In the year 1986, the Government decided to convert all the part time Vocational Instructor into full time Vocational Instructors based on One Man Committees recommendations. Later through a Government Order in G.O.Ms.No.752 dated 18.10.1996, it was decided to regularize the Part Time Vocational Instructors who have completed 3 months training in the District Institute of Education and Training in the post of Full Time Vocational Instructors. Pursuant to the same, the petitioner was sent to 3 months training and upon completion of the said training his service came to be regularized as Full Time Vocational Instructor with effect from 08.12.1999. Later on attaining the age of superannuation, the petitioner retired from service with effect from 31.12.2000.

(ii) The Government issued yet another Government Order in G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009, in which it was specifically provided to treat 50% of the service rendered in Non Provisionalized Service/Consolidated Pay/Daily wages in service of the



W.P.(MD).No.21919 of 2022

Government Employee for the purpose of computation of Pensionable Service.

The petitioner has rendered 34 years of service in Part Time Vocational instructor and one year of service in Time Scale of Pay. The petitioner is entitled to be covered by the mandates of G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009. Hence, he approached the respondents and requested them to treat 50% of his service in Part Time Vocational Instructor post for the purpose of calculation of Pension. The petitioner's proposal was forwarded by the 4th respondent by his proceeding dated 16.07.2014 to the 3rd respondent with a finding that he is eligible under G.O.Ms.No.408. Further the 3rd respondent carefully considered the proposal and by his proceeding dated 01.09.2014 requested the 2nd respondent to pass orders on his Pensionable benefits along with the calculation based on the service of the petitioner adopting the mandates of G.O.Ms.No.408 dated 25.08.2009.

(iii) However, the 2nd respondent did not pass any order. In view of the same, on behalf of the petitioner and other similarly placed persons, the Tamilnadu Secondary Grade Trained Technical Teachers Association filed a Writ Petition before this Court in W.P.No.23241 of 2015 in this regard and the



W.P.(MD).No.21919 of 2022

same was allowed on 31.07.2015. Thereafter, the Government filed Writ Appeal against the said order in W.A.No.1396 of 2017 and the Hon'ble Division Bench of this Court by its order dated 26.06.2019 allowed the Writ Appeal on the ground that Association is not entitled to file the above writ petition and dismissed the writ petition by giving liberty to the aggrieved employees to approach the concerned Department and pass appropriate orders. In view of the same, on 28.09.2021, the petitioner requested the respondents to pass orders for counting 50% of service rendered by him as Part Time Vocational Instructor for Pensionable purpose. The 4th Respondent on receipt of his representation, requested the 3rd respondent to send necessary papers for consideration of his representation. However, till date no orders were passed. Hence, this writ petition came to be filed.

3. The learned counsel appearing for the petitioner submitted that the petitioner is fully covered by the mandates of G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009 and the same has been fairly considered by the Department themselves. He further submitted that the 3rd respondent had duly recommended the case of the petitioner to the 2nd



W.P.(MD).No.21919 of 2022

respondent with appropriate calculations based on the mandates of G.O.Ms.No. 408, Finance (Pension) Department dated 25.08.2009 and forwarded the same for allowing the petitioner's proposal of treating 50% of service as Part Time Vocational Instructor for the purpose of calculation of pension. Hence, he pressed for allowing the writ petition.

4. Per contra, the learned Government Advocate vehemently submitted that the petitioner's case will not be covered under G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009, the first condition in the said G.O. itself would clearly shows that an employee shall be a full time employee and not a part time employee. The petitioner, he himself admitted by stating that his appointment was on temporary and part time basis and he is not at all a full time employee. Hence, he is not entitled to seek benefit of G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009 and pressed for dismissal of the writ petition.



W.P.(MD).No.21919 of 2022

WEB COPY

5. Heard, the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents. Carefully perused the materials available on record.

6. The matter is no more res integra and the same has been already held elaborately by this Court in W.P.No.23241 of 2015 dated 31.07.2015. For better appreciation, the relevant portion of this is extracted as follows:

“12.3. I followed the aforesaid judgments of this Court dated 16.04.2009 in W.P.No.39177 of 2002 and allowed the writ petition in W.P.No.4556 of 2007 (O.A.No.2667 of 2001) on 29.07.2011. I issued a direction to the respondents therein to count 50% of Part-Time service rendered form 1972 to 1997 along with regular service for the purpose of pension.

12.4. The Government filed appeal in W.A.No.1182 of 2014 against the aforesaid order dated 29.07.2011 in W.P.No.4556 of 2007. A Division Bench of this Court rejected the W.A.No.1182 of 2014 on 10.09.2014 relying on the earlier judgment of the Division Bench of this Court in W.A.No.1702 of 2010 and the same was also confirmed by the Apex Court in SLP No.6253 of 2011. It is useful to extract paragraphs 3 and 4 of the judgment dated 10.09.2014 in W.A.No.1182 of 2014 in this regard :



W.P.(MD).No.21919 of 2022

WEB COPY

“3. The learned Special Government Pleader appearing for the appellants submitted that the respondent, being the part time Instructor and not being a daily wage employee, is not covered by the relevant Government Order passed in G.O.Ms.No.408 Finance (Pension) Department, dated 25.08.2009, and therefore, the order passed by the learned Single Judge requires interference.

4. It is not in dispute that the facts involved before the Division Bench of this Court in W.A.No.1702 of 2010 are similar to the one before us. As against the decision rendered by the Division Bench, the appellant preferred a 13 Special Leave Petition No.6253 of 2011, which was also dismissed. Thereafter, the same was given effect to by passing separate order to the effect that 50% of the service should be added for the purpose of calculating the length of service for pension. Therefore, the learned Single Judge has corrected upheld the said ration while granting the relief. In such view of the matter, we do not find any error in the order passed by the learned Single Judge warranting interference.”

12.5. In fact, the Government, relied on G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009, to deny the benefit to the Part-Time Vocational Instructors, in the said case and the same was rejected by the Division Bench relying on the judgment of the another Division Bench and also the judgment of the Apex Court, as stated above.”



W.P.(MD).No.21919 of 2022

WEB COPY

7. Fully fortified by the findings of this Court in the discussion supra, this Court is of the considered view that the Full Time Vocational Instructors who were absorbed pursuant to G.O.Ms.Nos.224 and 752, Education, Science and Technology Department, dated 24.03.1994 and 18.10.1996 respectively much prior to 01.04.2003 and retired on various dates, shall be given the benefit of counting half of service rendered as Part Time Vocational Instructors along with regular service of Full Time Vocational Instructors for the purpose of pension. More particularly, the petitioner being covered under G.O.Ms.No. 752 dated 18.10.1996 and being the writ petitioner herein, he alone is entitled for the benefits extended under G.O.Ms.No.408 dated 25.08.2009.

8. In view of the same, this Court hereby direct the respondents to consider the petitioner's representation dated 28.09.2021 and pass appropriate orders in accordance with law in the light of the proceedings of the 3rd respondent dated 28.09.2021 within a period of twelve (12) weeks from the date of receipt of a copy of this order.



W.P.(MD).No.21919 of 2022

WEB COPY

9. Accordingly, this Writ Petition stands disposed of. No costs.

15.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

- 1.The Government of Tamilnadu,
Rep. by the Secretary to Government,
School Education Department,
Fort.St.George,
Chennai-600 009.
- 2.The Director,
Adi Dravidar and Tribal
Welfare Department,
Chepakkam, Chennai-05.
- 3.The District Adi Dravidar &
Tribal Welfare Officer,
Collector Office, Dindigul District.
- 4.The Special Tahsildar,
Adi Dravidar Welfare,
Nilakkottai, Dindigul District.



WEB COPY



W.P.(MD).No.21919 of 2022

L.VICTORIA GOWRI, J.

Sml

W.P.(MD).No.21919 of 2022

15.03.2024