



W.P.(MD) No.21461 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.21461 of 2023

M.Saroja

...

Petitioner

-vs-

1. The State of Tamilnadu,
rep.by its Principal Secretary,
School Education Department,
Fort St.George,
Chennai -09.

2. The Joint Director (Vocational) of School Education,
College Road,
Chennai -06.

3.The Chief Educational Officer,
Dindigul.

...

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, directing the respondents to take 50% of the part time service rendered by the petitioner i.e.,from 26.08.1985 to 04.10.1996 along with the regular service for the pension benefits i.e., for the period of 28 years 03 months 14 days, based on the common judgment passed



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by the Hon'ble Division Bench in W.A.(MD) Nos.347 and 526 of 2020, dated 20.04.2023, and by extending the benefits of G.O.Ms.No.127, School Education (Pa.Ka.7(1)) Department, dated 12.07.2023.

For Petitioner : Mr.R.Saravanan

For Respondents : Mr.N.Satheesh Kumar,
Addl. Govt. Pleader.

ORDER

The instant Writ Petition has been filed by a Vocational Teacher, seeking to consider the services rendered by her as a single part-time Vocational Teacher for the purposes of calculating the pensionary benefits.

2. The petitioner was appointed as single part-time Vocational Teacher on 26.08.1985 and her services were regularised with effect from 05.10.1996. She attained superannuation on 30.06.2019. Thereafter, she has approached the authorities seeking to reckon 50% of her services put up by her as single part-time Vocational Teacher. However, the said request has been rejected by the authorities on the ground that the said benefit is calculated only to the teachers, who have already approached the Court. Challenging the said order, the present Writ Petition has been filed.



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3. The respondents have filed a counter, contending that the teacher having retired in the year 2017 has sent a representation belatedly and thereafter approached this Court and hence the writ petition may be dismissed on the ground of laches.

4. I have carefully considered the submissions made on either side and also perused the material records.

5. The fact that the petitioner's services were regularized on 05.10.1996 is not in dispute. The judgment of the Hon'ble Division Bench of this Court in W.A.No.517 of 2020, dated 13.08.2020 has confirmed the orders passed by the learned Single Judge in W.P.(MD) Nos.15469 to 15476 of 2018, wherein, the writ Court had directed the authorities to consider the 50% of the services rendered as a single part time/ double part time Vocational instructors for the purposes of calculating pension. However, in paragraph No. 10 of the order of the Hon'ble Division Bench of this Court has held that if the concerned teacher had approached the Court belatedly they will not be entitled for any interest. The judgment of the Hon'ble Full Bench of this Court in **2019 (6) CTC 705 (The Government of Tamil Nadu, Represented by the Secretary to Government, Public Works Department and two others Vs.R.Kaliyamoorthy)** has held that the Government Employee/servant who



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has rendered non-provisional service on consolidated pay and whose services were regularized before 01.04.2003, half of the services rendered shall be counted for the purpose of confirming pensionary benefits.

6. In view of the fact that the eligibility of teachers to receive pension is a continuing cause of action, the question of limitation or laches would not arise. The only impediment for the writ petitioner is that he would not receive any interest for the belated disbursement of the arrears of the pensionary benefits.

7. In view of the above said facts, this Writ Petition stands allowed directing the authorities to consider 50% of the services rendered by the petitioner during the period between 26.08.1985 and 04.10.1996 for the purpose of calculation of pension and thereafter, proceed to disburse the pensionary benefits. However, the petitioner would not be entitled to any interest, if the disbursement of pensionary benefits is effected within a period of four months from the date of receipt of a copy of this order. There shall be no order as to costs.

29.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
dixit

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