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W.A.No.1316 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2025

CORAM:

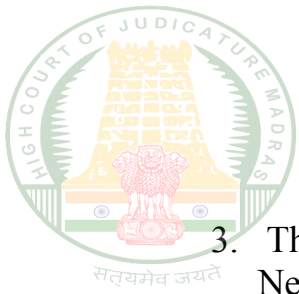
THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**
AND
THE HONOURABLE MR.JUSTICE **K.SURENDER**

W.A.No. 1316 of 2025
and CMP No.9962 of 2025

- 1 The Principal Secretary to Government,
Department of School Education,
Fort St. George, Chennai- 600 009.
 - 2 The Commissioner of Education,
D.P.I.Complex, College Road,
Chennai- 600 006.
 - 3 The Director of School Education,
D.P.I. Complex, College Road,
Chennai- 600 006.
 - 4 The Chief Educational Officer,
Perambalur.
- ... Appellants

Vs.

1. P.Durairasu
2. The Principal Accountant General of Tamil Nadu,
No.361, Anna Salai,
Teynampet, Chennai - 600 018.



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3. The Secretary and Correspondent,
Nehru Higher Secondary School,
Eraiur, Perambalur District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside
the order passed in WP No.12487 of 2020 dated 03.01.2024.

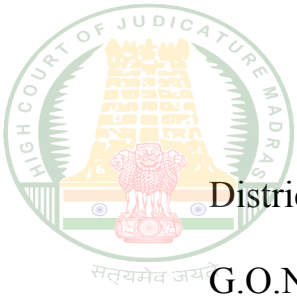
For Appellants : Mr.UM. Ravichandran,
Special Govt. Pleader

For Respondent : Mr.R.Prem Narayan, for R1

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

We see no merit in the Appeal. The petitioner, who retired from service on 31.03.2016, as a Post Graduate Teacher in the Government Aided Higher Secondary School, sought for inclusion of 50% of the services rendered by him as Vocational Instructor in Government Higher Secondary School, Thittakudi, from 27.07.1983 to 09.07.1989 and as a P.G. Teacher in Commerce in Nehru Higher Secondary School, Eraiur in Perambalur

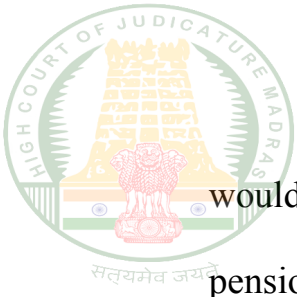


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District from 20.09.1989 to 31.05.1994. The claim was based on G.O.No.127 dated 12.07.2023 as well as proviso to Rule 11(2) of the Tamil Nadu Pension Rules.

2. The claim was resisted by the appellants contending that services rendered as a part time Vocational Instructor between 27.07.1983 and 09.07.1989 were not in a sanctioned post and therefore, such service could not be included. As regards the service rendered as P.G.Assistant between 20.09.1989 and 31.05.1994, it was contended that the School in which the respondent worked viz. Nehru Higher Secondary School, Eraiyur, was originally a High School and it was permitted to start Higher Secondary Course subject to the condition that the P.G.Teachers required for conduct of the Higher Secondary Course should be paid out of the funds of the Management for the first three years and grant-in-Aid will be only from the fourth year.

3. The respondent having been selected and appointed as a P.G. Teacher by the Management and his salaries having been paid by the Management for the period from 20.09.1989 to 31.05.1994, the respondent



would not be entitled to inclusion of half of such services for calculating his pensionable service.

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4. The learned Single Judge, who heard the Writ Petition, agreed with the contention of the appellants for the first part viz. for the period during which the respondent has served as a Vocational Instructor i.e. between 27.07.1983 to 09.07.1989. However, while considering the services as a P.G. Teacher in Commerce between 20.09.1989 and 31.05.1994 in Nehru Higher Secondary School, Eraiyur, the learned Single Judge concluded that these services being in a regular sanctioned post of course with a rider that the salary should be paid by the Management would be deemed to be at least temporary service and the petitioner would be entitled to addition of half of the said period of service in his pensionable service. Aggrieved the Government is on Appeal.

5. We have heard Mr. UM. Ravichandran, learned Special



Government Pleader appearing for the appellants and Mr. R.Prem Narayan,
learned counsel appearing for the first respondent.

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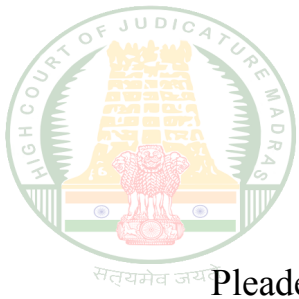
6. Mr. UM. Ravichandran, learned Special Government Pleader would contend that since the services rendered by the respondent as P.G. Teacher Commerce between 20.09.1989 and 31.05.1994 were not directly under the Government and he was not paid out of the funds of the State, he would not be entitled to add any part of his service to his pensionable service. Reliance is sought to be placed on the judgment in *The Secretary, SaliarMahajana Higher Secondary Schools, Aruppukottai, Virudhunagar District Vs. G.Subburaj and others* reported in *2005 (1) CTC 8*. A perusal of the said judgment shows that it has no relevance to the issue. The facts in that case are completely different. The order impugned therein was a direction by the learned Single Judge to direct the Government to pay salary treating the respondent therein as a regular Teacher, though he was illegally appointed, without considering the claims of those Teachers, who were available in the School that is not the case on hand. It is not in dispute that Nehru Higher Secondary School was permitted to commence Higher Secondary Courses from the academic year 1989-1990 and Teachers were also sanctioned



subject to, only, the condition that grant in Aid will not be provided.

Therefore, the appointment of the respondent on 20.09.1989 cannot be treated as illegal. Therefore, the said judgment has no application to the facts of the case.

8. We should also point out that in ***The Director of School Education vs. S.Radhakrishnan & Anr.***, a Division Bench of this Court has, under similar circumstances, directed inclusion of the service of the Teacher between 02.11.1987 and 03.12.1996 for the purpose of calculating qualifying years of service for grant of pension alone. The Court found that since the post was sanctioned, merely because the appointment was made by the School and salaries were paid by the Management, the Teacher cannot be denied the benefit. This judgment will, in our considered opinion, cover the issue that has arisen in this Writ Appeal. Admittedly, the School was upgraded as a Higher Secondary School with effect from 1989-1990 and permission was granted to commence Higher Secondary Courses by appointing Post Graduate Teachers. The only condition was that grant in aid will be deferred. This does not make the appointment illegal.



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9. Though Mr. UM. Ravichandran, learned Additional Government Pleader would attempt to seek support from Rule 12 of the Pension Rules which reads that service would mean service rendered under the Government and salary should be paid from the consolidated fund of the State or the local fund administered by the State. G.O.127 is in the form of an exception to the above Rule where it directs even persons appointed on a temporary basis would be entitled to count 50% of the service for calculating the pensionable service.

10. In the above back drop, we do not see any reason to interfere with the order of the learned Single Judge, which we find is in conformity with the Pension Rules, more so, when the fact that the courses to which the respondent was appointed to teach are approved courses and the approval has granted subject to a condition of deferment of payment of Grant-in-aid.

11. Hence the Writ Appeal fails and it is accordingly **dismissed**. The directions issued by the learned Single Judge will be complied within eight



weeks from today. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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(R.SUBRAMANIAN, J.) (K.SURENDER, J.)
19.06.2025

jv

Index : No
Neutral Citation : No
Speaking order

To

- 1 The Principal Secretary to Government,
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Fort St. George, Chennai- 600 009.
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Perambalur.

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