



W.P.Nos.18147 of 2023 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.02.2025

Coram:

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P.Nos.18147, 18149 and 18150 of 2023

A.M.Annalakshmi	... Petitioner in W.P.No.18147 of 2023
S.Thillaiammal	... Petitioner in W.P.No.18149 of 2023
K.Boopathi	... Petitioner in W.P.No.18150 of 2023

Vs.

1. The State of Tamilnadu rep. By its
Secretary to Government,
School Education Department,
Fort St. George,
Chennai – 9.
 2. The Director of Elementary Education
DPI Compound, College Road,
Chennai – 6
 3. The Chief Educational Officer,
Tirupur District, Tirupur
 4. The District Educational Officer,
Tharapuram, Tirpur District
 5. The Block Educational Officer,
Kundatam, Tiruppur District
 6. The Principal Accountant General,
(Accounts & Entitlement)
Nandanam, Annasalai, Chennai – 18
- ... Respondents in W.P.Nos.18148
and 18149 of 2023



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... Respondents in W.P.No.18150 of
2023

Prayer in W.P.No.18147 of 2023: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the respondents to count 50% services of the petitioner rendered as part time vocational instructor for the period from 13.02.1989 to 06.11.1997 along with regular service for the purpose of qualifying service for pension and to confer all consequential revision of pension and other benefits to the petitioner.

Prayer in W.P.No.18149 of 2023: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the respondents to count 50% services of the petitioner rendered as part time for the



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period from 15.02.1985 to 09.05.1995 along with regular service for the purpose of qualifying service for pension and to confer all consequential revision of pension and other benefits to the petitioner.

Prayer in W.P.No.18150 of 2023: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the respondents to count 50% services of the petitioner rendered as part time for the period from 15.02.1989 to 06.11.1997 along with regular service for the purpose of qualifying service for pension and to confer all consequential revision of pension and other benefits to the petitioner.

For Petitioners : Mr.V.Ravikumar
For Respondents : Mr.S.Prabhakaran for R1 to R5
Government Advocate (Education)
M/s G.Vardini Karthik for R6
Standing Counsel

COMMON ORDER

Since the issue involved in all the petitions are one and the same, they are taken up together and a common order is being passed.

2. The brief facts of the case in W.P.No.18147 of 2023 is that initially, the petitioner was appointed as a part-time vocational instructor on 12.02.1989 and subsequently, she was posted as a full time vocational instructor with effect from 07.11.1997. After rendering for more than 29 years of service to the Department,

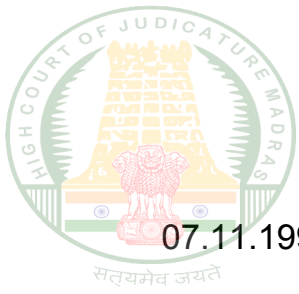


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the petitioner retired on 31.05.2018. The petitioner was sanctioned with pension by calculating the regular service rendered from 07.11.1997 to 31.05.2018 and as per various orders of this Court and orders of the Apex Court, if 50% part time service is taken into account, the petitioner will get some revised pensionary benefits. Hence the petitioner submitted representation to the respondents, the same has not been considered by the respondents, hence this petition.

3. The brief facts of the case in W.P.No.18149 of 2023 is that initially, the petitioner was appointed as a part-time vocational instructor on 15.02.1985 and subsequently, she was posted as a full time vocational instructor with effect from 10.05.1995. After rendering for more than 28 years of service to the Department, the petitioner retired on 31.05.2013. The petitioner was sanctioned with pension by calculating the regular service rendered from 10.05.1995 to 31.05.2013 and as per various orders of this Court and orders of the Apex Court, if 50% part time service is taken into account, the petitioner will get some revised pensionary benefits. Hence the petitioner submitted representation to the respondents, the same has not been considered by the respondents, hence this petition.

4. The brief facts of the case in W.P.No.18150 of 2023 is that initially, the petitioner was appointed as a part-time vocational instructor on 15.02.1989 and subsequently, he was posted as a full time vocational instructor with effect from



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07.11.1997. After rendering for more than 30 years of service to the Department, the petitioner retired on 31.05.2019. The petitioner was sanctioned with pension by calculating the regular service rendered from 15.2.1989 to 06.11.1997 and as per various orders of this Court and orders of the Apex Court, if 50% part time service is taken into account, the petitioner will get some revised pensionary benefits. Hence the petitioner submitted representation to the respondents, the same has not been considered by the respondents, hence this petition.

5. The learned counsel for the petitioners would submit that the act of the respondents in non-adding the 50% part-time services along with regular services as they were regularly absorbed prior to 01.04.2003 would amount to hostile discrimination and as against various orders of this Court and is 'unfair and unjustified' and the petitioners are entitled to count their 50% part-time service along with the regular services rendered by them, for the purpose of qualifying service for pension.

6. The learned Government Advocate (Education) appearing for the respondents 1 to 5 submits that in W.A.No.882 of 2017 batch cases, it is also rendered that “(i) 50% of the services rendered by the respondents herein as Part Time Vocational Instructor (either as Single part time or double part time Vocational instructor) shall be counted for the purpose of computing pension and



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other retrial benefits.(ii) The above said benefit shall be extended only to the respondents in these writ appeals and or the persons similarly situated like that of the respondents herein, whose cases are pending before this Court. Thus it is made clear that the above said benefit shall not be extended to any other future cases that may be filed on this account, on the ground of delay and laches, since all along they have not come up before this Court and remained as fence-sitters. It is also needless to point out that allowing such cases would amount to opening the pandora's box touching upon the financial implications of the State”.

As detailed above, the petitioners retired in the year 2018 and did not continue their cases all these years, further keeping silent over five years, the petitioners cannot claim their right now after a long delay. The petitioners' case suffers from laches and delays and at present, there is no merit and the prayer is not sustainable, thereby pleaded to dismiss the petitions.

7. The learned Standing Counsel appearing for the 6th respondent would contend that merely because this Court has passed multiple number of orders in favour of some of the similarly placed persons like the Writ Petitioners, it will not preclude the State Government from questioning those orders in a parallel or similar proceedings. Further, counting of part time service for the purpose of pensionary benefits under TNPR has not been backed either by the Rule



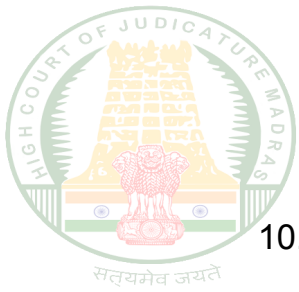
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Provisions or Government Orders / Court orders and therefore, the claim of the petitioners is not tenable, thereby pleaded to dismiss the writ petitions as devoid of merits.

8. Heard the learned counsel on either side and perused the documents placed on record carefully.

9. The learned counsel for the petitioners relies on the Judgment of this Court dated 16.04.2009 passed in W.P.No.39177 of 2002 (N.Rajendran Vs. State of Tamilnadu rep. By its Secretary to Government, School Education Department and Others] and submits that the said Judgment squarely covers the issue involved in these Writ Petitions and the relevant paragraph, viz., Paragraph No.7 of the said order is extracted hereunder:-

“7. The Court after carefully considering the submissions made by the learned counsel appearing on either side, is of the view that as per the orders dated 02.02.2006 passed in W.P.No.27017 of 2005, the period in which the petitioner was on consolidated pay i.e., from 07.09.1978 to 31.03.1990 and from 01.04.1994 to 22.09.1994 can be taken into consideration by adding 50% of the said service for the purpose of calculating the length of service for pension purpose along with the qualifying service rendered by him from 01.04.1990 to 31.03.1994 and from 23.09.1994 to 31.05.2001”



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10. The said Judgment was confirmed by the Hon'ble First Bench of this Court on 20.09.2010 in W.A.No.1702 of 2010, Paragraph No.3 of the said Judgment in W.A.No.1702 of 2010 is extracted hereunder:-

“3. It is evident from the records that the Writ Petitioner was appointed on consolidated pay from 07.09.1978 to 31.03.1990. Thereafter, he was brought into regular time scale of pay from 01.04.1990 to 31.03.1994 and from 23.09.1994 to 31.05.2001. Therefore, the learned Single Judge rightly held that 50% of the said service should be added for the purpose of calculating the length of service for pension purpose. We do not find any error in the impugned judgment. Hence the Writ Appeal is dismissed.”

11. In view of the above, this Court is of the view that the Full time instructors, who were absorbed on 12.09.1995, much prior to 01.04.2003 and retired on 30.11.2018, 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, as per the Judgment of Hon'ble First Bench of this Court in W.A.No.1702 of 2010 dated 10.09.2010. Accordingly, the respondents are directed to complete the exercise of granting the benefit of pension as indicated above to the petitioners, who retired as full-time vocational instructors within a period of sixteen weeks from the date of receipt of copy of this order.



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In result, the Writ Petitions are allowed. No costs.

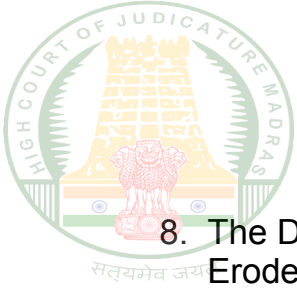
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13.02.2025

Index : Yes / No;
Internet : Yes / No
Speaking Order / Non Speaking Order
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